

06.12.2023

Sl. No.: 48

Court No.30

BM

CRR 1758 of 2020

Riya Kaiputra

Vs.

The State of West Bengal & Anr.

Mr. Angshuman Chakraborty

... for the petitioner

Mr. Swapan Banerjee

Ms. Purnima Ghosh

... for the State

The present revisional application has been preferred against an order dated 18.02.2020 passed by the learned Chief Judicial Magistrate, Barasat, North 24 Parganas in connection with C 2204 of 2019 thereby rejecting the petitioner's application under Section 156(3) of the Code of Criminal Procedure.

Learned counsel for the State has placed the relevant case diary along with relevant evidence.

Heard the learned counsel for the petitioner and the State.

Vide the said order under revision the learned trial court rejected the said application on the basis of a report submitted by an Officer of Duttapukur Police Station dated 4.2.2020. Admittedly, the petitioner and the opposite party no.2 who is the friend of the petitioner's husband had a love affair. They allegedly married at a Temple in Amdanga.

On 19.08.2019 the petitioner lodged a complaint with Duttapukur Police Station against her husband/the opposite party no.2 under Section 498A of the Indian Penal Code. The case ended in charge sheet.

Prior to the said incident the petitioner was married to one Anath Kahar in 2013 and she had lodged a complaint under

Section 498A/406/34 of the Indian Penal Code against the said Anath Kahar.

From the materials on record, it appears that prima facie marriage between the petitioner and the said Anath Kahar has not been dissolved. But in spite of that she had a temple marriage with the opposite party no.2 and subsequently, filed another case under Section 498A of the Indian Penal Code against the opposite party no.2.

The Police report dated 04.02.2020 states that as the Court released the opposite party no.2 on bail as he surrendered in Duttapukur Police Station Case No.613 under Section 498A of the Indian Penal Code, the petitioner being aggrieved filed the present case alleging offences under Sections 376/420/323/506/34 of the Indian Penal Code, on consideration of which her application under Section 156(3) of the Cr. P.C has been rejected by the trial court.

Admittedly, while the petitioner was still married to said Anath Kahar, she developed a relationship with the opposite party no.2.

It is submitted by the petitioner that the opposite party no.2 on assurance of marriage cohabited with her, but the circumstances and the materials on record are clear that as she was still married to Anath Kahar, it was not possible at that stage to marry the opposite party no.2, but in spite of the said situation, the petitioner and the opposite party no.2 allegedly got married in a Temple and started living together.

It is thus, clear that the alleged marriage is not a valid marriage and the petitioner knowing well, her existing and

subsisting marriage status with Anath Kahar continued to live with the opposite party no.2.

Accordingly, keeping with the guidelines of the Hon'ble Supreme Court in **Naim Ahmed vs. State (NCT of Delhi) 2023 Livelaw (SC) 66 and Sambhu Kharwar vs. State of Utter Pradesh & Anr. reported in 2022 SCC Online 1032**, it is prima facie clear that the materials on record clearly do not constitute the offence as alleged by the petitioner against the opposite party no.2. Accordingly, this Court finds no reason to interfere with the order under revision passed by the trial court rejecting the application under Section 156(3) of the Cr.P.C.

Accordingly, the order dated 18.02.2020 passed by the learned Chief Judicial Magistrate, Barasat, North 24 Parganas in connection with C 2204 of 2019 thereby rejecting the petitioner's application under Section 156(3) of the Code of Criminal Procedure, is hereby affirmed.

The Criminal Revision being CRR 1758 of 2020 is accordingly dismissed.

All connected applications stand disposed of.

Copy of this judgment be sent to the learned Trial Court forthwith for necessary compliance.

Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)