

18-08-2023
Court No.3
bm/mg/6.

**In The High Court At Calcutta
Jalpaiguri Circuit Bench**

**C.R.R. 59 of 2021
With
IA No. CRAN 1 of 2021**

**TANMOY DEB AND ORS.
Vs.
The State of West Bengal & Anr.**

Mr. Hillol Saha Poddar
... for the petitioner

Mr. Aditi Shankar Chakraborty
Mr. Ujjwal Luksom
... for the State

The instant application is filed under Section 482 of Code of Criminal Procedure praying for quashing of proceeding as well as quashing of the charge sheet being Charge Sheet no. 505 of 2020 dated November 30, 2020 under Section 498A of the Indian Penal Code, 1860 and Sections 3/4 of the Dowry Prohibition Act, 1961.

The genesis of the prosecution is an application filed by the defacto complainant

Soma Kar Deb, wife of petitioner no.1 against the present petitioner under Section 498A as well as Section 3/4 of Dowry Prohibition Act, 1961. Dowry demand and other allegations were made the basis of the complaint Investigation was directed by the Chief Judicial Magistrate, Cooch Behar. First Information Report was prepared and the case was registered as Cooch Behar Kotwali Police Station case No. 447 of 2020 dated 13.10.2020 under Sections 498A read with Section 3/4 of the Dowry Prohibition Act.

Mr. Saha Poddar, learned Counsel for the petitioner vehemently argued that omnibus and vague allegations are levelled against the petitioners falsely implicating them in criminal prosecution which should be nipped at the bud and prosecution should be quashed.

Mr. Lucksum, learned Counsel submitted that this is an incident of domestic violence and incriminating elements are present in the case diary.

I have heard rival submissions.

Allegations are there against the husband namely the petitioner no.1 which prohibits this Court to quash proceeding against him.

Factual aspects of allegations, its truthfulness or veracity cannot be tested in exercise of jurisdiction under Section 482 of the Code of Criminal Procedure. It demonstrates existence of some materials against the petitioner No.1. Whether the allegations are true or false can be decided at the trial. Furthermore, the petitioner no.1 is at liberty to file appropriate application for discharge at the time of consideration of charge. However, so far as the other petitioners are concerned they are not named anywhere. There are sweeping allegations against in laws without naming them, without specifying their role in the alleged torture upon the defacto complainant. Therefore, this Court is inclined to exercise jurisdiction under Section 482 of the Code of Criminal Procedure and quash the prosecution as aforesaid against petitioner nos. 2 to 6, and the aforesaid pending criminal proceeding is quashed against the petitioner No.2 to 6. Copy of this Order may be sent to Chief Judicial Magistrate, Cooch Behar for information.

The instant revisional application is disposed of along with pending application, if any.

Case diary may be returned.

(SUGATO MAJUMDAR, J.)