

13.10.2023

Item No.5

Ct.No.4

rc.

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL REVISIONAL JURISDICTION**

CRR No. 87 of 2023

In the matter of : **Pinaki Choudhury & Ors.** ... Petitioner.

Mr. Anirban Banerjee

Mr. T. Kumai

... For the Petitioners

Mr. Aditi Shankar Chakraborty

Mr. Nilay chakraborty

... For the State

Affidavit of service filed in Court is taken on record.

This application has been preferred at the instance of the accused persons/ petitioners under section 482 of the Code of Criminal Procedure (hereinafter referred to as the "Code") praying for quashing of the proceeding arising out of G.R. Case No. 877 of 2021 corresponding to Jaigaon Police Station Case No. 77 of 2021 dated May 14, 2021 under Section 498A of the Indian Penal Code (in short, "IPC").

Mr. Banerjee, learned advocate appearing for the petitioners submits that the allegations made in the FIR are unfounded. He strenuously argues that only to wreck vengeance, the complainant has falsely implicated the petitioner in the case which was started basing upon a story cooked by the complaint. He contends that in the case at hand, the provisions of 498A of the IPC has been used a tool and/or weapon to harass the accused persons. He submits

that in the FIR it was alleged that the victim had tortured in her parental house which falls within the jurisdiction of Kotwali Police Station of Jalpaiguri but FIR was lodged in Jaigaon Police Station. Mr. Banerjee argues that Jaigaon Police Station had no jurisdiction to investigate the alleged offence. According to Mr. Banerjee for these reasons, the proceeding is required to be quashed.

Mr. Chakraborty, learned advocate appearing for the State vehemently opposes such prayer of the petitioners. He submits that whether or not the allegations made in the FIR have substance would be decided in trial after taking evidence. He submits that the offence under Section 498A of the IPC is a continuous offence and it can be filed even at the place where part of the cause of action arose.

Heard the learned advocates appearing for the parties. Perused the material on record.

Section 482 of the Code of Criminal Procedure, 1973(in short, the Code) envisages three circumstances under which the inherent jurisdiction may be exercised by the High Court, namely, i) to give effect to any order under the Code, ii) to prevent abuse of the process of Court and iii) to otherwise secure the end of justice. In repetitive pronouncements, the Hon'ble Supreme Court was pleased to lay down principles that the criminal cases arising out of matrimonial relationship or family disputes can be quashed by a High Court in exercise of its power under Section 482 of the Code

when the parties have resolved their entire disputes among themselves. While exercising its inherent power, the High Court can also examine as to whether the possibility of conviction is remote and bleak and continuation of proceeding would be abuse of due of process of the court and extreme injustice would be caused to the accused person if the proceeding is not quashed.

In the given case, the case arising out of matrimonial dispute cropped up in between the victim and the accused persons have not been settled. Whether or not the allegations made in the FIR have got any substance can only be decided after taking evidence. No materials have been placed before me to lead me to infer that possibility of conviction is remote and continuation of the case would be abuse of the process of the Court. Indisputably, the offence punishable under Section 498A of the IPC is a continuous offence and a case under Section 498A of the IPC can be registered by the victim at the place where she has been forced to take shelter after being driven out from her matrimonial house

In such conspectus, I do not find any justification to quash the criminal case being G.R. Case no. 877 of 2021 corresponding to Jaigaon P.S. Case no. 77 of 2021 dated 14.05.2021 under Section 498A IPC.

In view of the instant criminal revisional application being CRR No. 87 of 2023 is dismissed.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Partha Sarathi Chatterjee, J.)