

29.8.2023
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SB
Ct. No.3

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

CRR 125 of 2023
(Through Video Conference)

In the matter of : Rohini Sitani

Mr. Debasish Sinha ... for the petitioner

Mr. Aditi S. Chakraborty
Mr. Kallol Acharjee ... for the State

Mr. Nabankur Paul
Mr. Abhishek Sarkar ... for the O.P. No. 2

By filing this application under Section 482 read with Section 401 of Code of Criminal Procedure the petitioner is seeking an order of quashment of Siliguri Police Station (W) Case No. 73 of 2022 in the proceeding being G.R. Case No. 2146 of 2022 registered under Section 498A of the Indian Penal Code read with Section 4 of the Dowry Prohibition Act. The petitioner happens to be the sister-in-law of the *de facto complainant*.

Briefly stated, the *de facto complainant* Garima Sanghai set the criminal proceeding into motion by informing the Officer-in-Charge of Siliguri (Women) Police Station (Women) in writing about her plight in her matrimonial home or in the company of her in-laws. The *de facto complainant* is married to Rohit Sitani and their marriage was solemnized on 28.11.2017. Soon after marriage she earned the displeasure of her mother-in-law as in the estimation of the mother-in-law the gift and jewelleryes and other items presented by her parents

were not upto the mark. Ten days after marriage she went to Singapore with her husband and two months thereafter, her in-laws came to Singapore. She was subjected to mental torture over there. She was forced to carry out day to day household work. None of the family members extended their help. In the month of March 2018, she came back to Siliguri with a mind to spend some days with her parents but her in-laws started taunting her and put her under pressure to come to Chennai. The in-laws were instrumental in creating a rift between herself and her husband. In the month of November 2018, during Diwali, when she went to Chennai she was asked to do all the household work. The informant took a job in Tele Sale company which was not liked by her in-laws. She was abused and even threatened with dire consequences. On 27.4.2020 she was physically assaulted by her husband. All her endeavour to reconcile and make her marriage work failed to yield any result. Even her parents were insulted by her husband. She was deserted by her husband at Siliguri in her father's house.

As the information disclosed offence cognizable in nature, Siliguri Women P.S. Case No. 73 of 2022 dated 12.5.2022 was registered. Police took up investigation which has been culminated into submission of charge-sheet.

Mr. Sinha, learned counsel appearing on behalf of the petitioner draws my attention to the averments made by the *de facto complainant* in her F.I.R and submits that the allegations made in the F.I.R. do not satisfy the requirement of law to constitute an offence under Section 498A of Indian Penal Code. The F.I.R. is full of general and omnibus

allegation so far petitioner, who happens to be the sister-in-law of the victim lady, is concerned.

Refuting such contention, Mr. Paul, learned counsel appearing on behalf of the *de facto complainant* draws my attention to paragraphs 5, 6, 7 and 11 of the F.I.R. and submits that the victim lady was compelled to take recourse to law which should not be considered to be her luxury. Despite her best effort to make her marriage work she was compelled to take such step. The content of the F.I.R. is correct which is why the husband is still absconding.

Mr. Acharjee, learned counsel appearing for the State submits that as against the petitioner, there is some general allegations only.

Section 498A of Indian Penal Code says :

“498A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.—For the purpose of this section, “cruelty” means—

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”

Section 4 of Dowry Prohibition Act held :

“4. Penalty for demanding dowry.—If any person demands, directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years and with fine which may extend to ten thousand rupees:

2. Penalty for demanding dowry.—If any person demands, directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment for a term which shall not be less than six months, but

which may extend to two years and with fine which may extend to ten thousand rupees\:" Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months."

There is hardly any statement in the F.I.R. or any evidence in the Case Diary, collected during investigation to suggest that the petitioner was instrumental to harass the *de facto complainant* or to coerce her parents to meet any unlawful demand. There is no allegation that the petitioner ever tried to goad the victim to commit suicide or did any act to cause grave injury or danger to her life, limb or health. There is nothing to hold that she demanded dowry. Therefore, in my humble opinion in absence of any evidence against the petitioner, she should not be made to face trial. The charge sheet should be quashed *qua* the petitioner to avert the abuse of process of law, which I accordingly do.

The criminal revision is thus disposed of.

Let a copy of the order be sent to the learned Trial Court for information and necessary action.

(Siddhartha Roy Chowdhury, J.)