

09.01.2023
SL No 41
Court No.3
BR

**Circuit Bench of Calcutta High Court
At Jalpaiguri**

CRR 176 of 2021

**In the matter of : Nripendra Tikadar @ Nripen & Anr.
.... Petitioner**

Mr. Apalok Basu,
Mr. Nazir Ahmed

.... For the petitioner

Mr. Aditi S. Chakraborty, Ld. APP,
Mr. Kallol Acharji,

.... For the State

Mr. Bhaskar Roy Mahashaya

.... For the O.P. No. 2

This is an application filed by the petitioners who happen to be the parents-in-law of the opposite party no. 2, arrayed as accused persons in a proceeding under Section 498A of the I.P.C.

Briefly stated, the opposite party no. 2, Smt. Jayanti Basak (Tikadar) and Pulak Tikadar son of the petitioners herein got married and started staying together as man and wife for a certain period. Thereafter, they decided to live separately on and from 6th December, 2018. They approached the competent Court for mutual divorce under Section 13B of the Hindu Marriage Act. However, the marriage was not dissolved by mutual consent. Subsequent thereto, the wife opposite party no. 2 informed the Inspector-in-charge Sitalkuchi Police Station in writing that she was being harassed and treated with cruelty by her husband and

her parents-in-law. Police registered a case under Section 498A of the I.P.C. and under Section 3/4 of the Dowry Prohibition Act. After completion of investigation police submitted charge sheet against the accused persons.

Mr. Basu, learned Counsel for the petitioner submits that there is no ingredient of offence within the meaning of Section 498A of the I.P.C. and in particular the petitioner being the parents of the Pulak Tikadar, the husband of the Jayanti Basak (Tikadar) did not do any overt act which can be considered as an offence within the meaning of Section 498A of the I.P.C.

Mr. Chakraborty, learned APP representing the State contends that submission of charge sheet indicates prima facie existence of the offence committed by the petitioners.

Learned Counsel representing the opposite party no. 2 opposes the prayer of the petitioners vehemently.

The averment made in the petition under Section 13B of the Hindu Marriage Act which was registered as MAT Suit No. 84 of 2019 before the learned Additional District Judge, Mathabhanga, supported by affidavit when considered in contradiction with the information given by the opposite party no. 2 to police, the F.I.R. appears to be concocted one and it reflects the vengeance of the de-facto complainant. The statement recorded by the witnesses in course of investigation speak of nothing but omnibus allegations.

Under such circumstances, I am of the view that it would be an abuse of process of law if the proceeding being G.R. case no. 900 of 2020 arising out of Sitalkuchi P.S. case no. 191 of 2020 is

allowed to remain in force qua the petitioners who even did not have any role to play in the marriage between the opposite party no. 2 and Pulak Tikadar. To secure ends of justice, I am inclined to invoke the provision of Section 482 of the Cr.P.C. to quash the proceeding qua the petitioners.

With this observation the criminal revision is disposed of.

(Siddhartha Roy Chowdhury, J.)