

IN THE HIGH COURT AT CALCUTTA
(Criminal Revisional Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 1620 of 2022

Smt. Ruma Das @ Dey & Ors.

Vs

The State of West Bengal & Anr.

For the Petitioners : Mr. Mukunda Lal Sarkar.

For the State : None.

For the Opposite Party no. 2 : Mr. Santanu Chatterjee,
Mr. Soumyak Ghosh.

Hearing concluded on : 25.04.2024

Judgment on : 17.05.2024

Shampa Dutt (Paul), J.:

1. The present revisional application has been preferred praying for quashing the proceedings being CR Case No. 657 of 2019, instituted by one Priyabrata Das, son of Late Madanmohan Das before the Learned Court of the Additional Chief Judicial Magistrate at Durgapur under Sections 341/323/379/506/34 of Indian Penal Code at present pending before the Learned Judicial Magistrate, 2nd Court at Durgapur, Paschim Burdwan and all orders passed in connection therewith including order dated 07.08.2019 passed by the Learned ACJM at Durgapur and order dated 04.03.2020, 07.01.2021, 11.06.2021 & 06.12.2021, passed by the Learned Judicial Magistrate, 2nd Court at Durgapur, Paschim Burdwan thereby taking cognizance of the offences punishable under Sections 341/323/379/506/34 of the Indian Penal Code against the petitioner herein.
2. The petitioner No.1 and the complainant/opposite party no. 2 were married in the year 2010.
3. A (female) child was born out of the said wedlock on 14.09.2012. Subsequently, being tortured by the opposite party no. 2, the petitioner no.1 was driven out of her Matrimonial home with her child on 08.07.2017. She then filed a case under Section 125 Cr.P.C. and thereafter an execution case.

4. The petitioner no.1 then filed a case under Sections 498A/323/506/34 IPC vide an application dated 28.07.2017 under Section 156(3) Cr.P.C. She also filed proceedings under the Domestic Violence Act.
5. The petitioners state that due to the filing of the several cases against the opposite party no.2, the opposite party no.2 with to wreck vengeance, intentionally, whimsically and falsely filed a C.R. Case u/s 190 of the Cr.P.C. before the Learned Court of the Additional Chief Judicial Magistrate at Durgapur, Paschim Burdwan giving rise to the present case being C.R. Case no. 657 of 2019 u/s 341/323/379/506/34 of the Indian Penal Code, process has been started by the Judicial Magistrate, 2nd Court, Durgapur.
6. **The allegations in the petition of complaint are as follows:-**
 - i) *That soon after the social marriage the complainant/husband came to know from the accused person no.1 that the marriage was solemnised against her will.*
 - ii) *The said information shocked the complainant, but as per the advice of his mother and well-wishers the complainant used to love and respect and take care of her, so that she would willfully lead her marital life with the complainant.*
 - iii) *Thereafter both of them started to lead their conjugal life as husband and wife, and as such their marriage was duly*

consummated, and out of the said wedlock one female child, namely, Ritika Das was born.

- iv) After few days the accused person no.1 started to demand for a separate mess without any reason, and on his refusal to fulfill such unlawful demand he was subjected to physical and mental cruelty as inflicted by the accused person no. 1, and supported by the other accused persons/petitioners herein.*
- v) That the accused person no.3 came to the residence of the complainant on 07.07.2017, and he took the petitioner no. 1 away along with their child on 08.07.2017 by making a plea that the accused person no. 2 was very sick and she wanted to meet the accused person no. 1/petitioner no. 1.*
- vi) On 15.07.2017, the complainant went to the paternal house of the accused person no.1 where she is presently residing, to bring her back along with the child, but the accused person no.1 refused to come back to her matrimonial home, and the other accused persons supported her and asked the complainant to get ready for divorce, but the complainant requested the other accused persons to suggest to the accused person no. 1 to lead happy conjugal life with the complainant for the sake of their only child. Thereafter the accused persons told him that if he would want to lead a conjugal life with the accused person no.1, then he had to live separately from his mother. The complainant*

then requested them to consider the situation of his mother as she was a widow and she had no other person to take care of her except the complainant.

- vii) The accused persons then asked the complainant to arrange for a sum of Rs. 10,000,00/- (Rupees ten lakh) only, and to divorce the accused person no.1.*
- viii) Lastly on 21.05.2019 the accused person no.1 made a phone call to the complainant asking him whether he would pay the said sum of Rs. 10,000,00/- (Rupees to Ten Lakh) only or not, but the complainant refused to pay the said sum to the accused person no.1, as he did not have such amount of money to pay.*
- ix) On 04.08.2019 all the accused persons at about 3 p.m. came to the residence of the complainant, and by pushing away the mother of the complainant, they entered into the residence of the complainant, and then they bolted the main door from inside. Thereafter they started to close every window and door of the residence.*
- x) Then the accused person no. 1 asked the complainant to give her the said sum of Rs. 10,000,00/- (Rupees ten lakh) only, and to sign on divorce-paper.*
- xi) The complainant refused to pay the said amount of money, or sign on the divorce-paper.*

xii) Then all the accused persons went away from there by threatening that if the complainant would not pay the said sum of Rs. 10,000,00/- (Rupees ten lakh) only within three months, then they would come again and compel him to pay that amount money.

xiii) Thereafter the complainant went to Cokeoven P.S. to lodge his complaint, but the officials there suggested him to settle the dispute among themselves or to take the shelter of the Court of Law.

7. From the materials on record, it appears that the dispute between the parties is a matrimonial dispute.

8. The petitioners' contention is that the opposite party no. 2 has tortured the petitioner no.1 mentally and physically when she stayed in her matrimonial home.

9. Admittedly the petitioner no.1 has lodged several cases against the opposite party no. 2.

10. It is the case of the opposite party no.2/complainant in this case that when he went to bring back his wife (petitioner no. 1) & his child, who had been taken away by her brother (petitioner no.3), he was abused.

11. Subsequently, the petitioner no.3 and he petitioner no.1 along with other petitioners came to the house of the opposite party no.2 and demanded a sum of Rs. 10,000,00/- from their and a divorce.

12. On being refused, they assaulted him and his mother and took away Rs. 5000/-.
13. The sequence of events as stated make out a prima facie case against all the petitioners in respect of the offences alleged and such a case should be permitted to proceed towards trial so that the truth about the disputes between the parties can be unveiled.
14. **CRR 1620 of 2022 is thus dismissed.**
15. All connected applications, if any, stand disposed of.
16. Interim order, if any, stands vacated.
17. Copy of this judgment be sent to the learned Trial Court for necessary compliance.
18. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)