

19.02.2024
Sl.No. 34
Ct. 32
Amalranjan

In The High Court At Calcutta
Criminal Revisional Jurisdiction
Appellate Side

CRR 1508 of 2017
With
CRAN 2/2017 (Old CRAN 4446/2017)

Shyama Prosad Barman
Vs.
State of West Bengal and anr.

Nobody appears on behalf of either of the parties on call. Even on earlier occasion no one represented the petitioner, no accommodation sought for.

This case pertains to the year 2017.

The instant revisional application has been filed by the petitioner under sections 482 read with section 401 of the Criminal Procedure Code, 1973, challenging the order dated 23.02.2017 passed by the learned Metropolitan Magistrate, 16th Court, Calcutta in G.R. Case no. 371 of 2016 arising out of Burrabazar PS case no. 72 dated 18.02.2016 under sections 506/509 of the IPC, thereby the learned Metropolitan Magistrate has rejected the prayer made in the petition under section 239 of the Criminal Procedure Code.

This case is taken up for the purpose of disposal on merit, since no one represented the petitioner and to avoid further delay.

The facts of the instant case are relevant for the purpose of disposal of the case.

The marriage between the petitioner and the opposite party no. 2 has solemnized on 18.05.2013 and they started living as husband and wife in their matrimonial home peacefully. On 18.02.2016 the opposite party no. 2 has lodged one written complaint with the Officer-in-Charge, Burrabazar police station, inter alia, alleging commission of offences under section 506/509 of the IPC against the petitioner. Another case being Baguiati Police Station case no. 931 dated 9.10.2015 under sections 498A/323/494 of the IPC read with sections 3/ 4 of the Dowry Prohibition Act between the parties is also pending.

On the basis of a written complaint this case was registered against the petitioner being Burrabazar PS case no. 72 dated 18.02.2016 under section 506/509 of the IPC.

In this case, the petitioner surrendered before the learned court below and obtained bail, though, the complaint was false and fabricated one. No such incident as alleged has been taken place with the petitioner. As such, the petitioner filed an application for discharge under section 239 of the Cr.P.C. But the learned court below without considering the case of the petitioner and without assigning sufficient reasons rejected his prayer for discharge. Accordingly, the instant case has been filed.

Considering the case of the petitioner and on perusal of the order passed by the learned Metropolitan Magistrate, this court finds the case was registered on the basis of a written complaint lodged by the opposite party no. 2 against

the petitioner and the same was resulting in registration of Burrabazar PS case no. 72 dated 18.02.2016 under section 506/509 of the IPC.

After completion of the investigation, the I.O. of the said case submitted chargesheet against the petitioner. In the said proceeding, the petitioner had filed an application under section 239 Cr.P.C. The said case was heard by the learned Metropolitan Magistrate and finally came to conclusion that the issue agitated by the accused can only be decided after trial on evidence. The learned court below also found materials on record and those are sufficiently set-forth in the chargesheet as such rejected the prayer for discharge.

This court also does not find any sufficient reasons or grounds to interfere with the order of the learned court below. The order passed by the learned court below is on the basis of, prima facie, materials available in the C.D. against the petitioner.

Under the above facts and circumstances of the above case, the application is devoid of merit and accordingly, the instant revisional application being **CRR 1508 of 2017** is dismissed without any order as to costs.

Consequently, the application being **CRAN 2/2017 (Old CRAN 4446/2017)** is also, thus, disposed of.

Interim order, if any, stands vacated.

Let the order be communicated to the Ld. Court below for information.

Liberty is granted to all parties to act in terms of the copy of this order downloaded from the official website of this court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties taking all legal formalities.

(Ajay Kumar Gupta, J.)