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30.04.2024
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C.R.R.1887 of 2023
With
CRAN 1 of 2024

In Re: An application under Section 482 of the Code of Criminal
Procedure, 1973;

Malabika Ghosh and others
Versus
State of West Bengal and another

Ms. Jagriti Bhattacharya
Ms. Swarnali Saha.
...for the petitioners.

Mr. Apalak Basu
Mr. Nazir Ahmed
Mr. Soumyajit Chakraborty.
...for the opposite party no.2.

Mr. Binay Panda
Ms. Puspita Saha.
...for the State.

Petitioners have prayed for quashing of the proceedings
being Saktigarh Police Station Case No.65 of 2022 dated
26.02.2022.

Mr. Binay Panda, learned advocate appearing for the
State has produced the case diary. The case diary reflects that on
conclusion of investigation, charge-sheet has been submitted before
the jurisdictional court under Sections 448/323/506/504/34 of the
Indian Penal Code. From the charge-sheet it also reflects that there
are five witnesses out of which two are police witnesses and the
three witnesses are Chhanda Nandi, complainant, Suvodip Nandi,
the son of the complainant and Asish Majumdar, the son-in-law of
the complainant.

Learned advocate appearing for the petitioners has drawn the attention of the Court to the enclosure in the revisional application which relates to a proceeding arising out of Purba Bardhaman Sadar Women Police Station Case No.20 of 2022 dated 14.01.2022 under Sections 498A/323/34 of the Indian Penal Code. Learned advocate submits that the present case has been engineered for circumventing the proceedings relating to Purba Bardhaman Sadar Women Police Station Case No.20 of 2022 and is a defence which has been made out against the daughter-in-law by foisting the present criminal case upon her and her parents.

At the time of hearing of the revisional application, Mr. Apalak Basu, learned advocate appearing for the complainant/opposite party no.2 prays for filing of the affidavit-in-opposition. However, as the revisional application has matured and has been pending for a considerable period, the prayer for filing affidavit-in-opposition at this stage is refused by this Court.

Learned advocate appearing for the complainant/opposite party no.2 submits that the delay in the present FIR was because of the reason that the police authorities refused to act on the complaint which was lodged with the Police Station as well as with the Superintendent of Police. However, by the said time almost three months have passed.

I have taken into account the statement of the complainant which was treated to be the First Information Report of the instant case as well as the statement under Section 161 of the Code of Criminal Procedure and on an assessment of the same, I

am of the firm opinion that so far as the petitioner no.3, namely, Renuka Ghosh is concerned, no case has been made out against her. So far as the petitioner nos.1 and 2 are concerned, namely, Malabika Ghosh and Anath Bandhu Ghosh, there are some allegations in the complaint. Whether the said allegations are counter-blast to the offences complained of in the case under Section 498A of the Indian Penal Code (and other Sections) registered at the instance of the petitioner no.1 requires a thorough assessment.

Accordingly, the petitioner no.1 and 2 are directed to prefer their application under Section 239 of the Code of Criminal Procedure before the jurisdictional court. The said court on perusal of the whole of the documents in both the cases would arrive at its findings whether the petitioner nos.1 and 2 are required to face the trial or the charges against them should be dropped.

Consequently, the revisional application being CRR 1887 of 2023 is partly allowed.

The proceedings against the petitioner no.3, namely Renuka Ghosh is hereby quashed. If she is on bail, she may be discharged from the bail bonds. So far as the petitioner nos. 1 and 2 are concerned, the learned trial court will deal with the same as has been directed above.

Pending connected application, if any, is consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Tirthankar Ghosh, J.)