

CRR No. 2395 of 2024

In the matter of : Nabadip Sarkar & Ors..... petitioners.

Mr. Souvik Mitter
Ms. Rajnandini Das ...for the petitioners.

Mr. Debasish Roy
Ms. Subhasree Patel
Ms. Suchismita Dutta ...for the State.

Mr. Avinaba Patra
Mr. Dipayan Kundu ...for opposite party.

Affidavit of service filed by the petitioners is taken on record.

Heard learned counsels for the parties.

Perused the Case Diary.

The petitioners are the husband and parents in law of the private opposite party.

Learned counsel for the petitioners submits that no prima facie offence has been made out against the 2nd and 3rd petitioners. The couple has been married for 15 years and the entire allegation is thrust upon the 1st petitioner/husband.

Learned counsel for the petitioners has placed reliance on the authorities in Neelu Chopra & Anr. vs. Bharti reported in (2009) 10 SCC 184 and Geeta Mehrotra

& Anr. vs. State of Uttar Pradesh & Anr. reported in (2012) 10 SCC 741 in support of his contention.

It is submitted on behalf of the opposite party that there is prima facie material against all the petitioners under Section 498A/34 of the Indian Penal Code and the extent of involvement of the petitioners is a factual aspect which requires to be dealt with by the learned Trial Court upon consideration of evidence.

It appears from the complaint as well as statement of witnesses, particularly the minor child of the couple recorded under Section 161 of the Code of Criminal Procedure that prima facie ingredient of offence as alleged cannot be ruled out qua the husband/the 1st petitioner. Allegation against the 2nd and 3rd petitioners who are the parents in law of the 2nd opposite party are general and omnibus in nature and do not constitute an offence under Section 498A of the Code, far less an offence under Section 325/308 of the Code.

The Hon'ble Supreme Court, in the authorities in Geeta Mehrotra (supra) and Neelu Chopra (supra) has observed that when the complaint lacks ingredients constituting offence as alleged and the involvement of the accused in the whole incident appears only by way of a casual inclusion of their names, they cannot be made to suffer the ordeal of a criminal case pending against them. It would be an abuse of the process of law to allow the

prosecution to continue on the basis of a vague and general compliant which is silent about the precise acts of the accused.

In view of the above, this Court is inclined to hold that continuation of the case against the 2nd and 3rd petitioners shall be an abuse of the process of law.

The proceedings of Sessions Trial No.06 (08)/2023 pending before the learned Additional District & Sessions Judge, Fast Track, 2nd Court, Malda be quashed insofar as the 2nd and 3rd petitioners are concerned. However, the case shall continue qua the 1st petitioner.

The revisional application being CRR 2395 of 2024 is disposed of.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)