

28 & 29
29-07-2024
Ct. No.34
b.das

CRR No. 4943 of 2023

With

CRR No. 2539 of 2022

+

CRAN 1 of 2023

In the matter of : Mrinal Kanti Pal & Anr..... petitioners.

Mr. Shibaji Kumar Das
Ms. Deblina De ...for the petitioners.

Ms. Rituparna De Ghosh
Ms. Dhanasree Biswas ...for the State.

Mr. Surajit Basu ...for opposite party no.2.

Heard learned counsels for the parties.

The petitioners who are the parents in law of the private opposite party in both the revisional applications seek quashing of GR Case No.5312 of 2021 including the FIR pending before the learned Chief Judicial Magistrate, Barasat, North 24 Parganas on the ground that the petitioners ordinarily reside in Nagpur whereas the private opposite party and her husband used to reside in Bengaluru after their marriage. Also, no specific overt act has been made out against the petitioners either in the complaint or during investigation prima facie suggesting offences under Section 498A/406/120B of the Indian

Penal Code and Sections 3 /4 of the Dowry Prohibition Act.

The entire allegations are thrust upon the husband of the private opposite party who is not before this Court.

Learned counsel for the petitioners has placed reliance on the authorities in Kahkashan Kausar Alias Sonam & Ors. vs. State of Bihar & Ors. reported in (2022) 6 SCC 599 and Neelu Chopra & Anr. vs. Bharti reported in (2009) 10 SCC 184 in support of their contention.

Per contra, learned counsel for the opposite party submits that the FIR as well as statement of witnesses recorded under Section 161 of the Code of Criminal Procedure discloses sufficient material for proceeding with the trial against the petitioners under Section 498A/406/120B of the Code.

Referring to the Case Diary, learned counsel for the State submits that the witnesses have unanimously stated that physical and mental torture was meted out upon the private opposite party by the petitioners in her matrimonial home. Though the petitioners claim to be residing separately from the private opposite party, the cause title of the petition for anticipatory bail filed by the petitioners before the Bengaluru Court reveals that they were residing in Bengaluru at the relevant point of time with the private opposite party.

I have considered the rival contention of the parties and material on record including the Case Diary.

The private opposite party initially lodged a complaint before the Officer in charge, Nandini Lay out Police Station, Bengaluru on 27th September, 2021 alleging torture upon her and also that she was driven out of her matrimonial home by her husband on September 14, 2021. On returning to Kolkata, she lodged a subsequent complaint before the Officer in Charge Baguihati P.S. alleging physical and mental torture upon her by the petitioners as well besides her husband.

It appears from the contention of the private opposite party as made out in the complaint as well as material which has transpired during investigation that a prima facie case for trial has been made out against the petitioners besides the husband of the private opposite party. Whether such allegations have been substantiated by sufficient and adequate evidence is for the Trial Court to decide by way of examining the witnesses.

In the authorities relied upon by the petitioners, the Hon'ble Supreme Court has observed that most of the complaints under Section 498A of the Code are filed in the heat of the moment over trivial issues without proper deliberations and the section is often misused. In the absence of any specific role attributed to the accused, it

would be unjust if the accused are forced to go through the tribulations of a trial.

There is no quarrel with the said proposition of law. But in the case in hand, there appears to be disclosure of prima facie material in the complaint as well as during investigation which may be substantiated at the time of trial. It is not a case where the complaint can be quashed at this initial stage in view of absence of adequate prima facie material.

While exercising jurisdiction under section 482 of the Code of Criminal Procedure, the Court should not stifle or axe down a legitimate prosecution and ought to leave the same to the prudence of the learned Trial Court who can deal with the same on merits.

The revisional applications being CRR 4943 of 2023 and CRR 2539 of 2022 are dismissed.

Accordingly, CRAN 1 of 2023 is disposed of.

Case Diary be returned.

There shall, however, be no order as to costs.

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

(Suvra Ghosh, J.)