

71. 27.11.2024
Saikat Ct. No. 237

CRR 2272 of 2018

**Subhamoy Bhattacharjee & Ors.
Vs.
State of West Bengal & Anr.**

Mr. Dipanjan Chatterjee, Adv.
Mr. Kalyan Kumar Bhattacharjee, Adv.
Ms. Sahina Khatun, Adv.
Ms. Kakan Das, Adv.
Ms. Rimpa Adhikari, Adv.

...For the Petitioners

Mr. Anand Keshari, Adv.

...For the State

Being aggrieved and dissatisfied with the proceeding, being G.R. Case No.647/15 now pending before the learned Additional Chief Judicial Magistrate, Barrackpore, present application has been preferred by the petitioners seeking quashment of the proceeding, It is submitted that petitioner No.1 is the husband, petitioner No.2, is father-in-law, petitioner No.3, is mother-in-law and petitioner No.4, uncle-in-law and petitioner No.5 is the wife of petitioner No.4.

The de facto complainant/opposite party No.2 lodged a written complaint against the petitioners contending that she was married with the petitioner No.1 on 30th June, 2013. It is alleged that she was subjected to physical and mental torture by husband and other in-laws and on various occasions petitioner No.2 had outraged her modesty. It is alleged in the F.I.R. that the accused persons created pressure upon her for bringing Rs.1,000,00/- from her parents and when she refused to bring the same, the petitioners had driven her from her matrimonial house and also threatened her. On the basis of said written complaint, Naihati P.S. Case No.67 of 2015 dated 6th

February, 2015 was started. After completion of investigation police has submitted charge-sheet against the petitioners.

Challenging the said impugned proceeding, Mr. Chatterjee, learned counsel appearing on behalf of the petitioners submits that the allegations levelled against the petitioners are baseless and concocted. For the last few years, the opposite party No.2 is living on her own and she has voluntarily left her matrimonial house as she was not satisfied about her marriage with the petitioner No.1. It is further stated that the opposite No.2 has taken away all her streedhan articles from her matrimonial home.

On instruction Mr. Chatterjee submits that the opposite party No.2/complainant has married for the second time and presently residing peacefully with her newly married husband. Considering facts and circumstances of the case, he submits that the continuance of further proceeding against the present petitioners would be an abuse of the process of court and accordingly, the present impugned proceeding may be quashed.

Mr. Keshari, learned counsel appearing on behalf of the State placed case diary before this court and submits that sufficient incriminating materials have been collected against the petitioners during investigation and the charge-sheet has already been submitted and the case is pending for framing of charge before the trial court and as such it would not be appropriate to quash the proceeding at this stage.

On perusal of FIR and materials in the case diary collected during investigation, I find except bald allegation that petitioner no.3,4,5 herein supported principal accused No. 1& 2, who allegedly

harassed defacto complainant for dowry and that they conspired to driven her from matrimonial house, nothing else indicating their involvement in the crime is found. The complainant alleged that 'all accused harassed her mentally and threatened her' but no specific or distinct allegation has been made either against petitioner no. 3 or 4 or 5 herein nor any specific role in furtherance of the general allegations made against them and as such it is not possible to ascertain the role played by each of the aforesaid three accused person, in furtherance of the offence. In fact allegations made against said three petitioners are omnibus and general, though there might have certain allegations which specifically attributed to petitioner no. 1&2. In order to rope a person mere mentioning of sections or the languages of those sections is not sufficient but what is required to brought before the notice of the court is the particulars of the offence committed by each and every accused and the role played by each and every accused in committing of that offence.

Therefore, upon consideration of the aforesaid facts and circumstances of the case and in the absence of any specific role attributed to the petitioner no. 2, 3, & 4, it would be unjust if said petitioners who are merely relatives of the husband would be forced to undergo trial.

Apex Court time and again has deprecated such implication of the near relatives of the wife without making any specific allegation against them.

Having considered the facts and circumstances of the case, the criminal proceeding being G.R. Case No.647/15 presently pending

before the learned Additional Chief Judicial Magistrate, Barrackpore, is quashed qua Petitioner No.3, Kum Kum Bhattacharyya @ Kumkum Bhattacharjee, petitioner No.4, Ashim Bhattacharyya @ Ashin Bhattacharjee and petitioner No.5, Shamali Bhattacharyya @ Shamali Bhattacharjee.

However, this order will not preclude the petitioner Nos.1 and 2 to ventilate their grievances before the court below at the time of hearing of the charge or any appropriate stage thereafter.

CRR 2272 of 2018 is accordingly disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties, on priority basis, upon compliance of all necessary formalities.

(Dr. Ajoy Kumar Mukherjee, J.)