

27.09.2024.
27.
Ct. No.237
Bd.

CRR 3290 of 2022
with
CRAN 1 of 2024
CRAN 2 of 2024

Nandan Kumar Panda & Ors.
-vs-
The State of West Bengal & Anr.

Mr. Manuwar Ali
Ms. Moumita Karmakarfor the petitioner.

Mr. Imran Ali
Ms. Debjani Sahu ... For the State

Affidavit of service filed by the petitioner is taken on record. Opposite party is not represented.

This is an application where petitioner has sought for quashing of the proceeding arising out of an FIR being Egra P.S. Case No. 163 of 2020 dated 07.03.2020 under sections 498A/323/406/34 of the Indian Penal Code read with Section 4 of the Dowry Prohibition Act.

The petitioners contended that the petitioner no. 1 is the husband of the defacto complainant and petitioner nos. 2 and 3 are the parents-in-law. The allegation leveled in the FIR is that she got married with petitioner no. 1 and out of their said wedlock two female children were born. It has been further alleged that after birth of the second child the petitioners started to inflict torture physically and mentally and also demanded more dowry to the tune of Rs.

3,00,000/- and when she failed to bring the same she was driven out from her matrimonial house.

Petitioners further contended that petitioner no. 1 is an army personnel and he has a good reputation at the locality as well at his work place and petitioner nos. 2 and 3 are senior citizens and they are suffering from various old age ailments. They further contended that the petitioners are nowhere connected with the alleged offences. However, after completion of investigation police has submitted charge-sheet against the petitioners/accused persons under the above mentioned sections. Petitioners further submits that during investigation nothing has been seized which can independently establish the commission of offence as alleged. Moreover, the investigating officer did not record any statements of eye witness either under section 161 of the Cr.P.C or under section 164 of the Cr.P.C. and as such the investigating officer failed to establish the commission of offence against the petitioners. Furthermore, the defacto-complainant or the investigating authority could not bring in record, any medical paper in support of alleged assault inflicted by the accused persons upon the defacto-complainant and in fact they never inflicted any kind of torture upon the opposite party no. 2 and all the allegations are false and fabricated.

In such view of the matter, if the impugned proceeding is allowed to continue it will lead to travesty of justice.

Accordingly, petitioners have prayed for quashing of the said proceeding.

Ms. Sahu, learned counsel appearing on behalf of the State, submits that FIR clearly speaks about the commission of offence and specific allegations have been attributed against each accused person. She further submits that investigation has already been culminated into a charge-sheet and as such the prosecution should get an opportunity to prove the allegation leveled against the accused persons. Accordingly, she submits that this is not a fit case for quashing the proceeding at its threshold.

Having considered the written complaint at its face value and as correct in their entirety, I am unable to persuade myself to hold that the contents of the FIR does not disclose any cognizable offence against the accused persons.

At the stage of considering prayer for quashing of the proceeding, High Court is supposed to examine only the allegations made in the FIR and is not supposed to appreciate any of the materials collected in course of investigation. Since charge sheet has already been submitted petitioners/accused persons always have the remedy at the time of framing of charge to pray for discharge, if the materials on the basis of which charge sheet has been filed can be said to be insufficient to frame a charge. But by no means at this stage High Court would be justified in

quashing the proceeding, where on the basis of prima facie materials investigation has culminated into a charge sheet.

In such view of the matter Trial Court is directed to expedite the hearing of the said criminal proceeding and to take every endeavour to conclude the entire proceeding preferably within a period of six months from the date of communication of this order.

CRR 3290 of 2022 is accordingly disposed of.

CRAN 1 of 2024 and CRAN 2 of 2024 being dismissed as not pressed.

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

(Ajoy Kumar Mukherjee, J.)