

21.11.2024
Serial no.DL/10
Asraf
Ct. No. 30

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

CRR 3674 of 2022

**BANASREE PAL
VS.
THE STATE OF WEST BENGAL & ORS.**

Mr. Tanmay Chowdhury
Mr. Nabankur Paul
Ms. Ritoprita Ghosh

.....for the Petitioner

Mr. Imran Ali
Mrs. Debjani Sahu

.....for the State

1. The present revisional application has been preferred against **an order dated 02.08.2022** passed by the learned Chief Judicial Magistrate at Suri, Dist. Birbhum in GR case no.561 of 2021 arising out of Suri PS case no.190 of 2021 dated 19.05.2021 under Sections 498A, 406, 506 and 509 read with Section 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act, 1961.
2. It is submitted by the petitioner that the learned Chief Judicial Magistrate vide the order under revision was pleased to reject the 'Narazi' petition of the de facto complainant which was filed, as

chargesheet has been filed without Section 406 of IPC.

3. It is further submitted that all documents in respect of her stridhan articles are with the petitioner but the police did not accept the same and thus did not file the chargesheet under Section 406 of the IPC.
4. Copies of documents have been annexed to the revisional application in respect of the stridhan articles.
5. The order under revision dated 02.08.22 is as follows:-

"Dated 02.08.2022

..... Perused the CS and the documents on the record.

The defacto complainant had indeed being examined u/s 161 Cr.p.C and her statement was recorded u/s 161 Cr.P.C.

She had stated clearly in her statement u/s 161 Cr.P.C that she had no document in her custody to hand over to the I.O. No document in respect of the stridhan articles were given to the IO and hence, nothing was seized by the IO and hence, I find nothing exceptionally irregular in the investigation conducted by the IO and there is nothing to interfere with the police report and order of cognizance has already been taken one year back and hence, ends of justice would be defeated if further investigation is allowed at this delayed stage.

Let the case be proceeded as directed by the previous order.

D/C by me.

**Sd/-
C. J.M, Birbhum."**

6. It appears that the learned Magistrate only relied upon the statement recorded under Section 161 of Cr.PC of the petitioner/de facto complainant which admittedly is recorded by a police officer. No opportunity was given to the de facto complainant to produce the documents in support of her prayer. The said order is also not a reasoned order and it appears that there is no application of mind for such consideration of the prayer of the petitioner.
7. In ***State Project Director U.P. Education for All Project Board & Ors. Vs. Saroj Maurya & Ors., in Civil Appeal No. 3465 of 2023, decided on 21st August, 2024***, the Supreme Court held:-

*“3. We are of the opinion that in the absence of any reasoning in the impugned judgment, the same cannot be sustained. In this regard, we are benefitted by the following observations made by this Court in **CCT v. Shukla & Bros., (2010) 4 SCC 785**. The relevant paragraphs of the judgment are extracted hereinbelow: -*

“23. We are not venturing to comment upon the correctness or otherwise of the contentions of law raised before the High Court in the present petition, but it was certainly expected of the High Court to record some kind of reasons for rejecting the revision petition filed by the Department at the very threshold. A litigant has a legitimate expectation of knowing reasons for rejection of his claim/prayer. It is then alone, that a party would be in a position to challenge the order on appropriate grounds. Besides, this would be for the benefit of the higher or the appellate court. As arguments bring things hidden and obscure to the light of reasons, reasoned judgment where the law and factual matrix of the case is discussed, provides lucidity and

foundation for conclusions or exercise of judicial discretion by the courts.

24. Reason is the very life of law. When the reason of a law once ceases, the law itself generally ceases (Wharton's Law Lexicon). Such is the significance of reasoning in any rule of law. Giving reasons furthers the cause of justice as well as avoids uncertainty. As a matter of fact it helps in the observance of law of precedent. Absence of reasons on the contrary essentially introduces an element of uncertainty, dissatisfaction and give entirely different dimensions to the questions of law raised before the higher/appellate courts. In our view, the court should provide its own grounds and reasons for rejecting claim/prayer of a party whether at the very threshold i.e. at admission stage or after regular hearing, howsoever concise they may be.

25. We would reiterate the principle that when reasons are announced and can be weighed, the public can have assurance that process of correction is in place and working. It is the requirement of law that correction process of judgments should not only appear to be implemented but also seem to have been properly implemented. Reasons for an order would ensure and enhance public confidence and would provide due satisfaction to the consumer of justice under our justice dispensation system. It may not be very correct in law to say, that there is a qualified duty imposed upon the courts to record reasons.

26. Our procedural law and the established practice, in fact, imposes unqualified obligation upon the courts to record reasons. There is hardly any statutory provision under the Income Tax Act or under the Constitution itself requiring recording of reasons in the judgments but it is no more res integra and stands unequivocally settled by different judgments of this Court holding that the courts and tribunals are required to pass reasoned judgments/orders. In fact, Order 14 Rule 2 read with Order 20 Rule 1 of the Code of Civil Procedure requires that, the court should record findings on each issue and such findings which obviously should be reasoned would form part of the judgment, which in turn

would be the basis for writing a decree of the court.

27. By practice adopted in all courts and by virtue of judge-made law, the concept of reasoned judgment has become an indispensable part of basic rule of law and, in fact, is a mandatory requirement of the procedural law. Clarity of thoughts leads to clarity of vision and proper reasoning is the foundation of a just and fair decision. In Alexander Machinery (Dudley) Ltd. [1974 ICR 120 (NIRC)] there are apt observations in this regard to say "failure to give reasons amounts to denial of justice". Reasons are the real live links to the administration of justice. With respect we will contribute to this view. There is a rationale, logic and purpose behind a reasoned judgment. A reasoned judgment is primarily written to clarify own thoughts; communicate the reasons for the decision to the concerned and to provide and ensure that such reasons can be appropriately considered by the appellate/higher court. Absence of reasons thus would lead to frustrate the very object stated hereinabove."

- 8.** Thus the order of the learned Magistrate suffers from inherent defects and permitting such an order to remain shall be an abuse of process of law.
- 9.** Accordingly, in the interest of justice, the order under revision is hereby set aside.
- 10.** The learned Magistrate is directed to hear the 'Narazi' petition afresh, considering the documents filed before this Court by the petitioner relating to her stridhan and on considering the said materials and giving an opportunity of hearing to both sides shall decide the Narazi petition by passing a reasoned order **within a period of two months** from the date of this order.

11. The instant revisional application being CRR 3674 of 2022 is thus disposed of.

12. All applications connected thereto, if any, stand disposed of.

13. Interim order, if any, stands vacated.

14. Let a copy of this order be sent to the learned Trial Court for compliance.

15. Urgent photostat certified copy of this order, if applied for, be supplied to the parties as expeditiously as possible after compliance of legal formalities.

[Shampa Dutt (Paul), J.]