

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

CRR 3197 of 2018

Sikha Biswas & Anr.

Vs.

The State of West Bengal & Anr.

Mr. Sourov Mondal
Mr. Rony Mondal
Mr. Abhirup Halder
Mr. Ramkrishna Dutta
Mr. Mainak Ghosal
... For the petitioners

Mr. Rana Mukherjee, APP
Mr. Pratick Bose
... For the State

1. This revisional application has been preferred with a prayer for quashing the Charge Sheet No.135 dated 31st August, 2017 corresponding to GR Case No.1084 of 2013 arising out of Lake Town Police Station Case No.334 of 2013 dated 13th December, 2013 under Sections 498A/420 of the Indian Penal Code.

2. The law was put into motion by one written complaint lodged by the opposite party no.2 with the following allegations:-

“I Debashree Nandi, d/o Indubhusan De, presently residing in Jubani Apt. Flat 101-B, 45 Kampara Lane Dhakuria, Kol – 700 031 got married to Dr. Biplap Nandi on 5th May, 2011 and consequently the marriage got registered in Kolkata (Lake Town). After my marriage my husband and his family harassed me mentally and physically at my matrimonial home. At the same time they

harassed me with dowry demands. Finally my husband left me at my father's place. After my father intervened with my husband and my mother-in-law, to solve the situation and to continue a peaceful life they demanded dowry in return of the continuation of our marriage. All my belongings, my gold, platinum, diamond, cheque books and other expensive articles were under their custody. I therefore went to my matrimonial house to retrieve the same but I was not only denied entry but also physically tortured. My father intervened but he was held captive for 3 hours by my abovementioned in-laws. They have never kept track of my whereabouts. Recently during my stay abroad for my higher studies, I received call from Sikha Biswas and Mr. Gobinda Biswas, who verbally abused me to no limits. They also threatened to spoil my life."

3. After investigation, charge sheet was submitted against five accused, including the petitioners herein, under Sections 498A/420 of the Indian penal code.

4. Learned counsel appearing on behalf of the petitioners has contended that the allegation against these two petitioners made in the complaint does not attract any offence within the meaning of Section 498A of the Indian Penal Code. In addition, learned counsel appearing on behalf of the petitioners has submitted that the allegation against these petitioners only regarding a phone call with the opposite party no.2 who was then residing abroad, but during investigation no Call Record Details (CDR) was ever seized as it appears from the charge sheet.

5. Mr. Rana Mukherjee, learned Additional Public Prosecutor, appearing on behalf of the State, in his usual fairness, has submitted that the allegation particularly against the

petitioners does not attract any offense under Section 498A of the Indian Penal Code.

6. On careful scrutiny of the written complaint, it is found that the entire allegations were made against the parent-in-laws and the husband particularly for subjecting the opposite party no.2 to mental and physical torture. It was also alleged in the written complaint that the husband and the parent-in-laws did not return all the stridhan properties.

7. Upon perusal of the entire written complaint, I do not find any specific allegation against these two petitioners, save and except a phone call which was also not substantiated by making seizure of the Call Record Details (CDR) in course of investigation by the Investigating Officer.

8. To attract the offence under Section 498A of the Indian Penal Code, there must be some allegation of cruelty within the meaning of Explanation to Section 498A of the Indian Penal Code. The meaning of cruelty has been clarified as willful conduct of the accused which is likely to drive the woman to commit suicide or to cause grave injury or danger to her life, limb or health. That apart, harassment of the woman also comes within the purview of cruelty when such harassment is with a view to coercing her or any person related to her to meet any unlawful demand.

9. On careful scrutiny of the written complaint, I do not find any of the ingredients of cruelty against the petitioners herein to attract an offence under Section 498A of the Indian Penal Code.

10. In that view of the matter, keeping an eye on the settled principle laid down by the Hon'ble Apex Court in several decisions, I find no other option but to hold that the written complaint of this case did not disclose any cognizable offense against these two petitioners of this revisional application.

11. Therefore, continuing with the proceeding against these two petitioners would be an abuse of process of Court.

12. In the result, the proceeding in connection with GR Case No.1084 of 2013 arising out of Lake Town Police Station Case No.334 of 2013 dated 13th December, 2013 pending before the learned Additional Chief Judicial Magistrate at Bidannagar, 24-Parganas (North) stands quashed against the two petitioners, namely, Sikha Biswas and Gobinda Biswas **only**.

13. Accordingly, the revisional application, being CRR 3197 of 2018 stands allowed.

14. All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court.

15. Criminal Section is directed to supply certified copy of this order, if applied for, upon compliance of necessary formalities.

(Bibhas Ranjan De, J.)