

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.R. 3580 of 2011

Lilawati Devi & Ors.

-Vs-

The State of West Bengal & Anr.

For the Petitioners : Mr. Subrata Bhattacharyya
Mr. Arhat Biswas
Mr. Somsuvra Sarkar

For the Opposite Parties : Mr. Dipanjan Datta
Ms. Rituparna Sana

Heard on : 12.12.2023

Judgment on : 08.03.2024

Ananya Bandyopadhyay, J.:-

1. The instant revisional application has been filed by petitioners praying for quashing of the proceeding being Complaint Case No. 747C of 2009 pending before the Learned Judicial Magistrate, 3rd Court at Howrah (Sadar) under Sections 498A/406/506(ii)/120B of the Indian Penal Code.

2. The contentions of the petitioners' are as follows:-

- i. The petitioner no. 1 had been a Central Government Employee and works in the Eastern Division of Ministry of Railways, Government of

India being a widow and was the elder sister-in-law of the opposite party no. 2.

- ii. The opposite party no. 2 was married to one Anup Kumar Srivastava on 28.01.2007 according to Hindu Rites and Rituals at 107/F, Jennous Road, Chotta Gate, Liluah Railway Colony, Police Station-Bally, District-Howrah. After marriage the opposite party no. 2 stayed with Anup Kumar Srivastava at her matrimonial house.
- iii. The petitioner no. 2 was the brother-in-law and petitioner no.3 and 4 were the sisters-in-law of the opposite party no. 2.
- iv. On the night of “bou-bhat ceremony” the behavior of the opposite party no. 2 towards her husband was unnatural and shocking as the opposite party no. 2 asked her husband to leave her for the sake of her boy friend employed in South Africa and she was forced into the marriage. The said fact was brought to the knowledge of the father of the opposite party no. 2 who asked Anup Srivastava not to pay any attention towards the opposite party no. 2. The opposite party no. 2 continued to torture Anup Srivastava mentally to obtain a decree of divorce. In the month of April, 2008 the opposite party no. 2 left her matrimonial house and moved to her parental house wherefrom on 21st June, 2008 she got admitted at Dewanti Nursing Home for the purpose of abortion and thereafter Anup Kumar Srivastava and his family members were continuously threatened by opposite party no. 2

and her family members to pay money for the purpose of divorce. The said fact was brought to the knowledge of Inspector-in-Charge of which Police Station on 08.12.2008.

- v. Thereafter on a number of occasions Anup Srivastava informed the police authorities about the mental torture and threatening by the opposite party no. 2 and his family members but no action was taken on the complaint lodged by him.
- vi. Finding no other alternative on 30.01.2009 the Anup Kumar Srivastava filed an application for divorce, being Mat. Suit No. 91 of 2009 under Section 13 of the Hindu Marriage Act, 1955 before the Court of the Learned District Judge Howrah inter-alia praying for a decree of divorce.
- vii. After long gap of six months the opposite party no. 2 preferred an application under section 200 of the Code of Criminal Procedure before the Court of the Learned Chief Judicial Magistrate, Howrah, being no. 747C/09 inter-alia praying for issuing process under Sections 498A/406/506(ii)120B of the Indian Penal Code against the petitioners and two other accused persons.
- viii. The petition of complaint filed by the opposite party no. 2 is totally based on conjecture and surmises and needs to be quashed.
- ix. The opposite party no. 2 has falsely implicated the petitioners in order to harass them to succumb to her demand.

3. The Learned Advocate for the petitioners submitted that :-

- i. In the instant case the criminal proceedings have been manifestly instituted with mala fide and maliciously the petitioners are implicated with an ulterior motive and the same must be quashed as a Criminal Court cannot be set into motion by issuing its process in order to wreak any vengeance and/or satisfying any private grudge against individual.
- ii. The Learned Court ought to have considered that not a single iota of evidence is reflected from the deposition of the opposite party no. 2 in order to implicate the petitioners and the continuation of the instant case will cause severe loss and injury to the petitioners.
- iii. The petition is complaint is taken at its face value and accepted in entirety, does not disclose the petitioners involvement into the offence and as such it would be a total abuse of the process of the Learned Court if the instant case is allowed to continue against the petitioner and as such the same is liable to be quashed.

4. The Learned Advocate for the opposite party submitted that the petitioners had been actively involved in instigating the husband of the opposite party/wife to obtain a divorce who was otherwise in an illicit relationship with the sister-in-law of the opposite party/wife and deliberately wanted to grab her stridhan articles. The incident of abortion was yet to be proved

before the Trial Court and at a preliminary stage the instant proceedings should not be quashed.

5. The deposition of the opposite party/complainant before the Trial Court on 31.07.09 allude to her ignorance of the reasons, her husband claimed divorce. Apart from general and omnibus allegations she did not broach on the overt acts of the husband as well as the petitioners herein to have tortured her. She conceded the eventuality to glean her stridhan articles if the husband obtained an order of divorce. The complaint was filed by the opposite party evidently after the husband of the opposite party filed an application under Section 13 of the Hindu Marriage Act on 30.01.2009. The instant proceedings was filed after a lapse of six months (approximately). The father of the opposite party deposed to have filed the complaint directly before the Court instead of approaching the police.
6. The Criminal Justice delivery system cannot be denigrated to an instrument of oppression to subserve malicious intentions and the process of Court must not be operated according to whims and frenzy of the litigants and as such the instant case being totally devoid of any ingredients of the offences as complained of shall not be permitted to continue. The in-laws of the opposite party have been entangled unnecessarily without reasonable justification.
7. The allegations contained in the complaint are absurd and inherently improbable that the same will miserably fail to qualify the test of ordinary

prudence and no just and proper conclusion can be arrived on the basis of the same.

8. The opposite party/wife cannot be allowed to conflagrate the grudge against the present petitioners' being the in-laws, at the expense of criminal proceedings to her advantage and to the detriment of the petitioners' herein, frittering Court hours.
9. In view of the above, the instant criminal revisional application is allowed.
10. Under such circumstances, the proceeding being Complaint Case No. 747C of 2009 pending before the Learned Judicial Magistrate, 3rd Court at Howrah (Sadar) under Sections 498A/406/506(ii)/120B of the Indian Penal Code is quashed.
11. There is no order as to costs.
12. Let the copy of this judgment be sent to the Learned Trial Court as well the police station concerned for necessary information and compliance.
13. All parties shall act on the server copy of this judgment duly downloaded from the official website of this Court.

(Ananya Bandyopadhyay, J.)