

03.04.2024

Item No.4
Ct.No.34
dc.

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

C.R.R. 4161 of 2023

In the matter of : **Shrabani Roy** ... Petitioner.

Mr. Kashiswar Ghosal ... For the Petitioner.

Mr. Debasish Roy, Ld. P.P.,
Mr. Arijit Ganguly ... For the State.

Mr. Pradeep Pandey ... For the Opposite Party No.2.

Affidavit-of-service filed in Court today be kept with the record.

Report dated 28.03.2024 submitted by the learned Public Prosecutor, High Court, Calcutta be also kept with the record.

I have considered the submissions advanced by the learned advocate appearing for the petitioner who insists on investigation because of the petitioner having suffered sexual abuse at the hands of the proposed accused in the application under Section 156(3) of the Code of Criminal Procedure. The learned Magistrate on consideration of the police report, which was ordered pursuant to the application under Section 156(3) of the Code of Criminal Procedure being filed, refused to pass any order of investigation, however, granted opportunity to the petitioner to adduce evidence by way of taking cognisance of the offence. The police report reflects that the case of sexual assault as alleged arose pursuant to the husband of the present petitioner having failed to disburse/refund the loan which he has taken from the proposed accused. Thrice undertakings were given by the husband of the present petitioner and thereafter the

jurisdiction of the criminal court has been invoked as a shield for not repaying the money.

Learned advocate for the petitioner insists that the loan has got nothing to do with the issue relating to sexual assault and/or abuse, but at the same time it must be appreciated that without laying the foundation of the case, an individual cannot be subjected to the perils of criminal law.

Having considered the police report and the observations of the learned Magistrate particularly in the order dated 10.08.2023, I am of the view that no interference is called for. As the learned Magistrate has already taken cognizance on the complaint and referred the matter to the learned Judicial Magistrate, Additional Court, Arambagh for disposal, I direct that prior to issuance of process, if required, the learned court, in seisin of the matter, would direct for an investigation under Section 202 of the Code of Criminal Procedure.

With the aforesaid observations, the revisional application being CRR 4161 of 2023 is disposed of.

Pending connected application, if any, is consequently disposed of.

All concerned parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

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

(Tirthankar Ghosh, J.)