

CRR 4570 of 2023
CRAN 1 of 2024

Subhajit Das & ors.
Vs.
The State of West Bengal & anr.

Adv. Sourav Chatterjee,
Adv. Pawan Kumar Gupta,
Adv. Abhimanyu Banerjee,
Adv. Sofia Nesar,
Adv. Santanu Sett,

... for the petitioners.

Adv. Sudip Kumar,
Adv. Saptarshi Chakraborty,

...for the State.

Affidavit of service filed on behalf of the petitioners is taken on record.

None appears for the private opposite party despite service.

Heard learned counsel for the parties. Perused the Case Diary.

The petitioners who are the husband and the parents-in-law of the private opposite party seek quashing of G.R. case no. 122 of 2018 corresponding to S.C. 08(09) of 2018 under Sections 498A/406/325/307/34 of the Indian Penal Code pending before the learned Additional Sessions Judge-cum-Fast Track Court at Kalyani, Nadia.

Referring to the complaint as well as charge framed by the learned trial Court, learned counsel for the petitioners submits that there is no *prima facie* material against the 2nd and 3rd petitioners who are the parents-in-law. There is also no material under Section 307 of the Code against the 1st petitioner, being the husband. Learned counsel has taken this

Court to the injury report of the private opposite party and has submitted that the injury report does not make out a case under Section 307 of the Code.

Learned counsel for the State opposes the prayer.

Charge has been framed against the 1st petitioner under Sections 498A/307/34, against the 2nd petitioner under Sections 498A/34 and against the 3rd petitioner under Sections 498A/406/34 of the Code.

It appears from the material on record, particularly the complaint lodged by the 2nd opposite party that the 2nd opposite party and the 1st petitioner resided in Kalyani, whereas the 2nd and the 3rd petitioners resided in Malda. Allegations against the 2nd and 3rd petitioners in the complaint is general and omnibus and no *prima facie* material under Sections 498A/406 of the Code has transpired against them during investigation. In absence of any *prima facie* material against the 2nd and the 3rd petitioners, allowing the proceeding to continue qua the 2nd and 3rd petitioners shall be a futile exercise and an abuse of the process of law.

In view of the above, this Court is inclined to hold that the proceeding being G.R. case no. 122 of 2018 corresponding to S.C. 08(09) of 2018 be quashed qua the 2nd and the 3rd petitioners.

However, with regard to the 1st petitioner who is the husband of the private opposite party and ordinarily resides with her at Kalyani, the injury report *prima facie* refers to an

allegation of asphyxia by a pillow. The pillow has been recovered.

Allegations made out against the 1st petitioner are factual aspects which need to be dealt with by the learned trial Court by way of evidence.

In view of the above, this Court is inclined to hold that the proceeding shall continue qua the 1st petitioner, in accordance with law.

The 1st petitioner shall be at liberty to canvas all the points taken before this Court at the time of trial.

With the aforesaid observations and directions, the revisional application, being CRR 4570 of 2023 and the connected application, being CRAN 1 of 2024 are disposed of.

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

(Suvra Ghosh, J.)