

02.08.2024
rc/ct.no.34
Item No.537

CRR No. 4892 of 2023

In the matter of : Gobindo Kumar Halder & Anr.

.....Petitioners

Mr. Manjit Singh
Ms. Tiya Mukherjee
Mr. Biswajit Mal

...for the Petitioners

Mr. Debasish Roy
Mr. Arijit Ganguly

....for the State

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

None appears on behalf of the private opposite parties despite service.

The petitioners who are the husband and the mother in law of the private opposite party seek quashing of the charge framed against under Section 313 of the Indian Penal Code in Sessions Case No. 183 of 2021 pending before the learned Additional District and Sessions Judge, Fast Track Court at Baruipur, South 24 Parganas on the ground that no offence under Section 313 of the Code has been made out against them.

Learned counsel for the petitioners has taken this Court to the medical documents of the private opposite party which demonstrate that the private opposite party underwent incomplete abortion due to several complications and consent for such abortion was given by the opposite party herself to the doctor as appears from the consent form appearing at page 132 of the application. Several WhatsApp chats between the 1st petitioner

and the private opposite party suggest that there was cordial relation between them and the private opposite party was suffering complications including fibroid which was standing in the way of her pregnancy. It also appears that the private opposite party was residing in her parental home when the alleged incident occurred and communicated with the first petitioner/her husband on the previous night about her health.

Upon meticulous consideration of the material on record, this Court is of the view that no prima facie case under Section 313 of the Code has been made out against the petitioners and the petitioners cannot in any manner be held responsible for the incomplete abortion of the private opposite party.

However, the proceeding shall continue against the petitioners under Section 498A and 406 of the Code.

Since the penal sections are triable by the learned Magistrate, learned Additional District and Sessions Judge, Fast Track Court at Baruipur, South 24 Parganas is directed to transmit the record to the learned Additional Chief Judicial Magistrate, Baruipur, South 24 Parganas for trial.

CRR No. 4892 of 2023 is allowed in part.

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

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

(Suvra Ghosh,J)