

08.08.2024
rc/ct.no.34
Item No.14

**CRR No. 5014 of 2023
with
CRAN No. 2 of 2024**

**In the matter of : Sri Tanmoy Das Adhikary & Ors.
.....Petitioners**

Mr. Jayanta Narayan Chatterjee
Ms. Moumita Pandit
Mr. Supreem Naskar
Ms. Jayashree Patra
Ms. Pritha Sinha ...for the Petitioners

Mr. Madhusudan Sur
Ms. Pushpita Saha ...for the State

Mr. Amal Krishna Samanta
Mr. Arun Kumar Das ...for the Opposite Party No. 2

Heard learned counsels for the parties.

The petitioners who are the husband and the parents-in-law of the private opposite party seek quashing of proceedings being G.R.Case No. 1713 of 2019 pending before the learned Additional Chief Judicial Magistrate, Haldia, Purba Medinipur.

Learned counsel for the petitioners submits that the 1st petitioner/husband filed an application under Section 9 of the Hindu Marriage Act, 1955 (hereinafter referred to as "the Act of 1955") on August 07, 2018 and an amicable settlement was arrived at by and between the 1st petitioner and the private opposite party wherein it was stated that they were residing together peacefully. The case was withdrawn on such count. The

private opposite party did not return to her matrimonial home after such settlement for which the 1st petitioner, after waiting for a considerable period of time filed an application before the Officer-in-Charge, Sutahata Police Station on October 16, 2019 informing such fact. The 1st petitioner filed a divorce suit against the private opposite party and upon service of notice of the suit on her on November 18, 2019, the present complaint has been lodged. There is no material as alleged against the petitioner, particularly the parents-in-law either in the complaint or in the charge sheet. The private opposite party has lodged complaint on completely false allegations and by suppressing the fact that there was an earlier suit filed by the 1st petitioner which ended in compromise.

Learned counsel for the private opposite party submits that the matter involves several factual disputes which cannot be decided in an application under Section 482 of the Code of Criminal Procedure.

I have considered the rival contentions of the parties as well as the material on record.

The petitioners have submitted documents in support of their contention that the earlier suit under Section 9 of the Act filed by the 1st petitioner ended in a compromise wherein the 1st petitioner and the private opposite party stated that they were residing together peacefully. According to the petitioners, the private opposite party never returned to her matrimonial home after the settlement was arrived at whereas the private opposite

party says that she was in her matrimonial home after the settlement where she was tortured by the petitioners. A prima facie case against the petitioners being made out in the complaint and during investigation, charge sheet has been submitted against them under Section 498A/323/34 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act on November 30, 2019. Charges have been framed against the petitioners and witness action is about to commence.

Upon consideration of the material on record, this Court is of the view that the material available in the FIR as well as during investigation suggests a prima facie case against the petitioners. The points raised by the petitioners are purely factual issues which need to be decided by the learned Trial Court upon recording evidence. This Court, in exercise of jurisdiction under Section 482 of the Code of Criminal Procedure, cannot deal with the truth and veracity of the averments made in the FIR and evidence which transpired during investigation. It is sufficient to hold that a prima facie case for trial has been made out.

The petitioners shall face trial before the learned Trial Court who shall weigh the evidence before him to come to a conclusion regarding the guilt of the petitioners or otherwise.

In view of the above, this Court is inclined to hold that the revisional application being CRR No. 5014 of 2023 is devoid of merits and is liable to be dismissed.

CRR No. 5014 of 2023 is dismissed.

As a consequence, the connected application being CRAN No. 2 of 2024 is also disposed of.

It is made clear that the observation made in this order are only for the purpose of consideration of the present application and the learned trial court shall decide the case independently, accordance with law without being influenced by any observation which has been made herein.

There shall be no order as to costs.

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

(Suvra Ghosh,J)