

March 20, 2025
25 ARDR

CRR 361 of 2024
CRAN 1 of 2025

Firoz Khan @ Feroz Khan @ Foroz Khan & ors.
Vs.
The State of West Bengal & anr.

Adv. Prantick Ghosh,
Adv. Prasad Bhattacharyya,

... for the Petitioners.

Adv. Anand Keshri,
Adv. Trisha Rakshit,

...for the State.

Report submitted by the State is taken on record.

None appears for the private opposite party despite service.

Heard learned counsels for the parties.

Perused the Case Diary.

The 1st petitioner is the wife of the private opposite party and the 2nd and 3rd petitioners her parents in law. The petitioners seek quashing of proceedings being GR case no.375 of 2022 pending before the learned Judicial Magistrate, 2nd Court, Barasat on the ground that no case has been made out against them as alleged.

Learned counsel for the petitioners takes this Court to the written complaint lodged by the private opposite party before the Officer in charge, Eco Park Police Station on 16th January, 2022 which demonstrates that the allegations are solely against the husband/1st petitioner and the 2nd and 3rd petitioners have only been termed as an accomplice. Learned counsel points out that though the private opposite party has alleged that the 1st petitioner assaulted her for which she was treated at Job Charnock Hospital, no medical document has been submitted.

Per contra, learned counsel for the State submits that sufficient material has transpired against the petitioners and the allegations

ought to be dealt with during trial. Learned counsel has taken this Court to the medical documents of the private opposite party which indicate that injury was inflicted upon the private opposite party and she was treated by the doctor.

I have considered the rival contention of the parties and material on record.

Charge sheet has been submitted against the petitioners under Sections 498A/420/506/323/406/195A/34 of the Indian Penal Code. It appears from the written complaint as well as statements of witnesses recorded under Section 161 of the Code of Criminal Procedure during investigation that the main thrust of the allegation is against the husband/1st petitioner. Documents on record *prima facie* suggest that the private opposite party was tortured and assaulted by the 1st petitioner on demand of money. Such allegations may be dealt with by the learned trial Court during trial upon examination of witnesses.

However, the allegations against the 2nd and 3rd petitioners are general and omnibus and do not make out any case as alleged. The only allegation against them is that they remained silent to the alleged torture meted out upon the private opposite party by the 1st petitioner. No material as alleged has transpired against the 2nd and 3rd petitioners either in the written complaint or in course of investigation.

In view of the above, this Court is inclined to hold that allowing the proceedings to continue against the 2nd and 3rd petitioners shall be an abuse of the process of Court. There being no evidence on the anvil of which an order of conviction can be passed against them,

they should not be made to suffer the ordeal of trial which shall be a futile exercise.

The revisional application is allowed in part.

GR case no.375 of 2022 pending before the learned Judicial Magistrate, 2nd Court, Barasat be quashed qua the 2nd and 3rd petitioners, namely, Hasina Khatun and Chota Kalam Khan.

The 2nd and 3rd petitioners be set at liberty at once and be discharged from their bail bonds.

It is made clear that the proceeding shall continue against the 1st petitioner.

As a consequence, CRAN 1 of 2025 is also disposed of.

Case Diary be returned.

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

(Suvra Ghosh, J.)