

22.01.2025
rc/ct.no.34
Item No.259

**CRR No.570 of 2024
with
CRAN No. 1 of 2024**

In the matter of : Suman Debnath & Ors.

.....Petitioners

Mr. Debanshu Ghorai	...for the Petitioners
Mr. Sachit Talukdar	for the State
Mr. A. B. Chakraborty	for the O.P.No.2

Heard learned counsels for the parties.

Petitioners who are the husband and other members of the matrimonial family of the private opposite party seek quashing of G.R.Case No. 22 of 2023 pending before the learned Judicial Magistrate, 4th Court, Durgapur, Paschim Bardhaman.

Learned counsel for the petitioners submits that the 1st petitioner was married to the private opposite party on November 18, 2018 and due to difference and dispute between them, left her matrimonial home on November 05, 2022. Since private opposite party refused to reconcile with the petitioners, a MAT Suit was filed against her by the 1st petitioner under Section 13 of the Hindu Marriage Act seeking dissolution of marriage. Upon receiving notice of the MAT Suit, the present complaint was lodged. There is no specific allegation against the petitioners in the complaint. Stridhan articles of the private opposite party has been seized and returned to the opposite party as appears from the charge sheet. The FIR is false and frivolous and is required to

be quashed. Learned counsel has referred to judgment delivered by a coordinate Bench of this Court in CRR No. 143 of 2022 on September 22, 2002 in support of his contention.

Per contra, learned counsel for the State takes this Court to the statement under Section 161 of the Code of Criminal Procedure recorded in course of investigation and submits that since stridhan articles of the private opposite party were recovered from the possession of the 1st petitioner, prima facie case under Section 406 of the Indian Penal Code has been made out against him.

Learned counsel for the private opposite party places reliance on the leave and licence agreement executed between the 1st petitioner and the owner of the premises in Kolkata and submits that though the agreement was signed by the licensor and licensee on May 28, 2022, it was affirmed before the notary on May 17, 2022 which is improbable. The document can therefore not be relied upon. Such submission is made against the assertion of the petitioners that the 1st petitioner and the private opposite party were residents of Kolkata ordinarily whereas other petitioners were residing at Paschim Bardhaman.

It is not in dispute that the 1st petitioner was married to the private opposite party on November 18, 2018 and left her matrimonial home on November 05, 2022. Though the FIR discloses that the private opposite party was meted out with cruelty by the petitioners after her marriage, she chose to remain silent from November 05, 2022 till January 03, 2023 when she

lodged the FIR. Incidentally the 1st petitioner filed a MAT Suit seeking dissolution of marriage on November 30, 2022 and it is evident that upon receiving notice of the said suit, the present complaint was lodged on January 03, 2023.

Cruelty is defined in Section 498A of the Indian Penal Code as under :-

“498A.....

- (a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or
- (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”

In the present case, it appears that allegations made against the petitioners are general and omnibus. The allegation of cruelty as defined in Section 498A of the Indian Penal Code has not been made out. No independent witness has been examined by the Investigating Officer during investigation. The witnesses are related to the private opposite party and have supported her case for obvious reasons. No prima facie case under Sections 498A/323/406/34 of the Indian Penal Code read with Sections

3/4 of The Dowry Prohibition Act, 1961 appears to have been made out against the petitioners.

The Hon'ble Supreme Court has time and again observed that when the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused, inherent power under Section 482 of the Code of Criminal Procedure ought to be exercised to prevent abuse of the process of the Court and to secure the ends of justice.

In view of the above, this Court is inclined to hold that allowing the proceeding to continue shall amount to abuse the process of the Court.

Accordingly, revisional application being CRR No. 570 of 2024 is allowed.

G.R.No. 22 of 2023 pending before the learned Judicial Magistrate, 4th Court, Durgapur be quashed.

Consequently the connected application being CRAN No. 1 of 2024 is disposed of.

The petitioners be set at liberty at once and discharged from their bail bonds.

Case Diary be returned.

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

(Suvra Ghosh,J)

