

370.
10.06.2025
Bd.
Ct. 29

CRR 1909 of 2023

**Avijit Adhikary & Ors.
Vs.
State of West Bengal & Anr.**

Mr. Kallol Kumar Basu
Mr. Prashanta Bishal
Mr. Jannat Ul Firdous ...for the petitioners.

Mr. Animesh Das
Mr. Dipankar Ghosh ... for the opposite party no.2

Mr. Rudradipta Nandy
Ms. Sonali Das ... for the State.

The present application has been preferred by the petitioners with a prayer for quashing of the proceeding being G.R. Case No. 886 of 2022 arising out of Panskura Police Station Case No. 244 of 2022 dated 30.03.2022 under section 447/323/354/506/34 of Indian Penal Code.

On 12.02.2022 the petitioner no. 1, herein lodged a complaint with the Officer-in-Charge, Panskura Police Station alleging inter alia that the de-facto complainant of the present case willfully and deliberately negotiated petitioners marriage concealing her previous marriage and thereby she and her relatives committed criminal offence and upon receipt of such complaint, Panskura Police Station Case No. 106 of 2022 dated 12.02.2022 under sections 420/406 of the Indian Penal Code was started against the wife/opposite party no.2 herein where the charge-sheet has also been submitted after completion of

investigation on 24th April, 2022. Thereafter, petitioner no. 1 herein also filed a suit for divorce which is still pending.

It is submitted that as a counter blast, the opposite party no. 2, who is the accused of the said criminal proceeding has filed the present complain under section 156(3) of the Code of Criminal Procedure before learned Chief Judicial Magistrate, Tamruk, Purba Medinipur, and on the basis of which learned Magistrate directed to start the instant proceeding, being Panskura Police Station Case No. 244 of 2022.

The gist of the allegation made in the instant FIR is that on 12.03.2022 at about 3.30 p.m. due to previous grudge the accused persons being armed with deadly weapons went to the house of the complainant and started abusing them with filthy language and also forcefully entered into the house of opposite party no. 2 and thereby they also ransacked the house of the complainant and assaulted the complainant and also outraged her modesty and tried to strangulate her with a view to kill her. Other accused persons assaulted her with fist and blow. The local people rushed to the spot when the accused persons threatened the opposite party no.2 of setting her house on fire and left the place.

Being aggrieved by the said proceeding Mr. Basu, learned counsel appearing on behalf of the petitioners submits that the instant case is counter blast of aforesaid Panskura Police Station Case No. 106 of 2022 and the allegation made in the FIR are false.

Petitioners were not present at the place of occurrence at the time of commission of alleged offence. The continuation of the present proceeding would be an abuse of the process of the Court and in this context he also annexed two certificates issued by the Headmaster of Kalagram Sahid Kshudiram Smriti Vidyapith to show that the petitioners namely petitioner no. 6 and petitioner no. 1 were far away from alleged place of occurrence when the offence was allegedly occurred at 3.30 p.m. He further submits that a proceeding under Domestic Violence Act, also initiated against the petitioner no. 1 by the same de-facto complainant but learned Trial Magistrate after considering the evidence and the documents disbelieved the de-facto complainant's contention and thereby dismissed the said proceeding being Misc. Case No. 512 of 2019. Accordingly, he submits that the self-same allegations leveled against the present petitioner have not been established before a competent Court of law and for which also further continuance of the present proceeding, will be a sheer abuse of the process of the Court.

Mr. Das, learned counsel appearing on behalf of the opposite party no.2 raised objection contending that the annexures made with the application cannot be considered at this stage to ascertain whether the said petitioners were present at the time of alleged occurrence or not. That can only be decided during trial and that the FIR prima-facie discloses offence against the petitioners and the charge-sheet also submitted after conclusion of investigation and as such this is not a fit case where the

proceeding can be quashed invoking jurisdiction under section 482 of the Cr.P.C.

Mr. Nandy, learned counsel appearing on behalf of the State placed the case diary and opposed the prayer for quashing. However, in his usual fairness he submits that the materials available in the case diary disclosed the offence primarily against the husband/petitioner no. 1 herein and as such he leaves the prayer to the discretion of the Court.

I have gone through the materials available in the case diary and considered the submissions made by the parties. On perusal of the materials including the statements recorded during investigation under section 161 of the Cr.P.C, it appears that general allegations are leveled against the petitioner nos. 2 to 15 who are relatives of the husband of complainant/opposite party no. 2. From the materials available in case diary during investigation read with written complaint it appears that the role allegedly played by said petitioners in furtherance of the general allegations are not specific. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations against petitioner nos. 2 to 15 are therefore omnibus in nature. In so far husband /petitioner no. 1 herein is concerned, there could be said something against him but so far as petitioner nos. 2 to 15 are concerned, I find that they have no connection to the matter in hand and have been dragged into the web of crime without any rhyme or reason. In my opinion mere reference to the names of

family members in a criminal case arising out of matrimonial dispute, without specific allegations indicating their (petitioner nos. 2 to 15) active involvement should not be encouraged.

Therefore, upon consideration of the relevant circumstances, it would be unjust if petitioner nos. 2 to 15 are forced to go through the tribulations of a trial on the basis of general and omnibus allegations, which would eventually lead to an acquittal for want of material evidence against them.

Having considered the aforesaid facts and circumstances of the case I find that though there are certain allegations against the petitioner no. 1, Avijit Adhikary, but the continuance of present proceeding against the other accused persons namely accused no. 2, Sudarshan Adhikary, 3, Jharna Adhikary, 4, Biswajit Adhikary, 5, Rumpa Adhikary, 6, Prasun Maity, 7, Chitta Adhikary 8, Keya Adhikary, 9, Bhagabati Adhikary, 10, Tanu Adhikary @ Tanushree Banerjee, 11, Rebati @ Reba Adhikary, 12, Roki @ Pradip Adhikary, 13, Bablu @ Sandip Adhikary, 14, Pinki Adhikary, 15, Jayanti Adhikary, shall be an abuse of the process of the Court.

In such view of the matter, the impugned proceeding being Panskura Police Station Case No. 244 of 2022 dated 30th March, 2022 corresponding to G.R. Case No. 886 of 2022 presently pending before learned Chief Judicial Magistrate, Tamluk, Purba Medinipur, is hereby quashed, qua the petitioner Nos. 2 to 15 namely, **petitioner no. 2, Sudarshan Adhikary, 3, Jharna**

Adhikary, 4, Biswajit Adhikary, 5, Rumpa Adhikary, 6, Prasun Maity, 7, Chitta Adhikary 8, Keya Adhikary, 9, Bhagabati Adhikary, 10, Tanu Adhikary @ Tanushree Banerjee, 11, Rebati @ Reba Adhikary, 12, Roki @ Pradip Adhikary, 13, Bablu @ Sandip Adhikary, 14, Pinki Adhikary, 15, Jayanti Adhikary.

However, this dismissal order in respect of petitioner no. 1, **Avijit Adhikary**, shall not preclude the said accused person to agitate all his grievances before the court below at the time of framing of charge or at any appropriate subsequent stage.

Accordingly, CRR 1909 of 2023 is disposed of.

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

(Dr. Ajoy Kumar Mukherjee, J.)