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CRR 3017 of 2019

Dip Sankar Sinha & Ors.
vs.
The State of West Bengal & Anr.

Mr. Arka Tilak Bhadra Mr. Sohom De Dhara	... for the petitioners
Mr. Saikat Mondal Ms. Debdattya Karmakar Ms. Shruti Mukhopadhyay	... for the O.P. No.2
Ms. Amita Gaur, Sr. Govt. Adv. Ms. Sujata Das	... for the State

The petitioners herein have challenged the impugned proceeding in Uttarpara Police Station case no. 326 of 2019 dated 2.7.2019 corresponding to G.R. case no. 1155 of 2019, presently pending before the learned Additional Chief Judicial Magistrate, Serampore, Hooghly under Section 498A/406/323/34 of the IPC.

The petitioner no. 1 is the husband and the petitioner no. 3 is the mother-in-law and the other petitioners are in laws of the defacto-complainant/wife/opposite party no2 herein. It is submitted on behalf of the petitioners that the allegations made in the complaint are absurd and inherently improbable and judicial process should not be used as an instrument of oppression or for needless harassment. He further submits that the present FIR was lodged after a long time of the alleged occurrence and no explanation has been offered for causing such delay. Furthermore, the Trial court

ordered for investigation by invoking his jurisdiction under Section 156(3) of the Code of Criminal Procedure, without considering the fact that there was non-compliance of the provision of Section 154 of the Code and he did not prefer to make a direction for enquiry in compliance with the observations made by the Apex court.

He further submits that no fruitful purpose is likely to be served by allowing the criminal proceeding to be continued and further continuance of the proceeding would be an abuse of the process of the court. In fact, the learned court below acted beyond his jurisdiction and the law. When the initiation of the case is not lawful that illegality strikes at the root of the proceeding and even if the charge-sheet has been submitted in the present case, the impugned proceeding has to be quashed as a whole.

In such view of the matter, the further continuance of the present proceeding should not be allowed and it will be quashed invoking court's jurisdiction under Section 482 of the Code.

Learned counsel for the opposite party opposed the prayer for quashment contending that the materials available in the written complaint as well as in the case diary constitute offence under the Sections mentioned in the charge sheet and as such, the prosecution should get an opportunity to produce the case during trial and it should not be thrown away at the threshold.

Learned counsel for the State also opposed the prayer for quashment and pointed out that the statements recorded by the investigating agency during investigation reveals that specific allegation has been made against all the accused persons and as such, they are jointly and severally responsible for committing physical and mental torture upon the private opposite party no. 2/*de facto*-complainant. She further pointed out that the injury report at page 58 of the case diary and submits that the petitioner no.1 have been implicated for obvious reasons. She further submits that materials in the case dairy also supports the case against the other petitioners and as such, this is not a fit case for quashing the impugned proceeding against the petitioners.

I have considered the submissions made by all the parties.

A perusal of FIR and materials available in the case diary reveals that allegations made by the complainant against her in-laws namely petitioner No.3 to 9 herein appears to be vague since no specific instance of harassment are mentioned nor specific role or allegations is levelled on either of the petitioner No.3 to 9. A mere omnibus statement has been made that physical and mental cruelty was inflicted because complainant refused to pay Rs. 3,00,000/- as demanded by them and it is merely mentioned that sister-in-law's/petitioners used to instigate husband/petitioner No.1 to harass the complainant but again no specific or precise instances are mentioned as to how said in-laws instigated her

husband and what acts were committed by them as a direct result of such instigation.

In Dara ***Laxmi Narayan & Ors. Vs State of Telengana & Anr.***, reported in **2024 SCC Online SC 3682**, Apex court held a mere reference to the names of the family members in a criminal case arising out of a matrimonial dispute without specific allegations indicating their active involvement should be nipped in the bud, keeping judicial experience in mind that there is often a tendency to implicate all the members of husband's family when domestic disputes arises out of matrimonial discord. Such generalized and sweeping accusations unsupported by concrete evidence or particularized allegations cannot form the basis for criminal prosecutions. Courts must exercise caution in such cases to prevent misuse of legal provisions and the legal process and avoid unnecessary harassment of innocent family members.

In the present case also as stated above, even if allegations are taken at face value, do not reveal any specific instance of cruelty, hurt or criminal breach of trust committed by the petitioners No.3 to 9.

In ***Preeti Gupta & Anr. Vs. State of Jharkhand & Anr.***, reported in **(2010) 7 SCC 667**, Court held in para 35 as follows:-

“35.....The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to be scrutinised with great care and circumspection.

Needless to say that in order to attract the expression “cruelty” in section 498A, the conduct must be such which may drive the woman to commit suicide or cause grave injury (mental or physical) or danger to life or harassment with a view to coerce her to meet unlawful demand, which is completely absent in the present case, so far as allegations levelled against the in laws are concerned.

When I see the materials placed before me including the materials in the case diary, I find that there could be something against petitioner No.1 herein/husband as the allegations are made against husband more precisely.

I am therefore of the view that impugned proceeding initiated against the in-laws with ulterior motive to settle personal scores and grudges against husband’s relatives i.e. petitioners No. 3 to 9 herein. Hence the instant proceeding falls within category (7) of paragraph 102 of Bhajanlal’s Case (1992 supp (1) SCC 335).

In such view of the matter, further continuance of the present proceeding in respect of the petitioner nos. 3 to 9 would be an abuse of process of the court.

Having considered the facts and circumstances of the case, the impugned proceeding being Uttarpara Police Station case no. 326 of 2019 dated 2.7.2019 corresponding to G.R. case no. 1155 of 2019, presently pending before the learned Additional Chief Judicial Magistrate, Serampore, Hooghly is quashed qua the **petitioner no. 3, Dipali Sinha, petitioner no. 4, Tua Acharjee @ Sudipta Acharjee, petitioner no. 5,**

Vaskar Acharjee @ Bhaskar Acharya, petitioner no. 6, Buban @ Pradipta Roy, petitioner no. 7, Sudip Kumar Roy, petitioner no. 8, Juthika Guha and petitioner no. 9, Uma Mitra.

CRR 3017 of 2019 is accordingly disposed of.

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

(Dr. Ajoy Kumar Mukherjee, J.)