

CALCUTTA HIGH COURT
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

CRR 403 of 2024

Chandana Adhikary
Vs.
The State of West Bengal & Anr.

Mr. Sudip Guha
Mr. Sandip Guha Roy
Mr. Ananda Paul ...for the petitioner

Mr. Ujjwal Luksom
Mr. Tapan Bhattacharjee ...for the State

Affidavit of service filed by the petitioner is taken on record. In spite of service, private opposite party/complainant is not represented.

This is an application wherein the petitioner has assailed the impugned proceeding being G.R. case no. 1019 of 2017 arising out of Falakata Police Station case no. 138 of 2017 dated 29.5.2017.

It is submitted on behalf of the petitioner that the petitioner is the sister-in-law of the defacto-complainant. The opposite party/defacto-complainant lodged a written complaint stating that on 10.10.2015, she got married with one of the accused persons, Bishwajit Adhikary (who is not the petitioner herein) and at the time of marriage, family members of complainant, gave an amount of Rs. 1,00,000/- in cash along with gold ornaments and other

household articles as dowry. Thereafter, the FIR named accused persons started physical and mental torture upon him in every possible way. Subsequently, on 22nd May, 2017, the FIR named accused persons including present petitioner assaulted her and with intention to kill her, they had pressed pillow in her mouth.

Learned counsel for the petitioner submits that that present petitioner is no way connected with the alleged offence and that the investigating agency unnecessarily submitted charge-sheet under Section 498A of the Indian Penal Code, against the present petitioner. The informant has falsely implicated present petitioner without any basis. He further submits that the petitioner has been selected in the final merit list of provisionally selected candidates for recruitment to the post of lady constable in Kolkata police but due to pendency of the present proceeding, she could not join in the said service. The petitioner further submits that the informant has maliciously implicated the present petitioner and the FIR story is purely concocted and fabricated one. Accordingly, she has prayed for quashing of the impugned proceeding.

Mr. Luksom, learned counsel appearing for the State placed the case diary and leaves the matter to the discretion of the court.

On perusal of FIR, the final report and all other documents accompanying, it reveals that the general allegations are leveled against the present petitioner, which alleged that all the accused persons harassed her mentally and physically but no specific and distinct allegation has been made against the present petitioner.

Before going to further details, let me reproduce Section 498A, which reads as follows:

“498A. Husband or relative of husband of a woman subjecting her to cruelty.—

Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation.— For the purpose of this section, “cruelty” means—

(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.”

The expression “cruelty” in Section 498A covers conduct which may drive the women 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.

The allegations made against the present petitioner in the FIR and other documents is general and omnibus and so far as present petitioner is concerned, can at best be said to have been made out on account of small skirmishes, allegedly taken place on 22.5.2017, which do not warrant prosecution against present petitioner. In fact exaggerated versions of small incidents against petitioner should not be encouraged and in the absence of specific role attributed against present petitioner in causing grave injury either mental or physical or to cause danger to life, limb or health

of the complainant, it would be unjust, if the petitioner herein are forced to go through the tribulations of a trial.

In view of the above facts and discussion, I find that the impugned proceeding is liable to be quashed qua the petitioner herein.

CRR 403 of 2024 is accordingly allowed.

The impugned proceeding being G.R. case no. 1019 of 2017 arising out of Falakat Police Station case no. 138 of 2017 dated 29.5.2017 is hereby quashed qua the petitioner namely, Chandana Adhikary.

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.)