
(2023) 01 CAL CK 0074
In the Calcutta High Court
Case No : Criminal Revision No. 1887 Of 2018

Dharma Das Bose & Anr.

APPELLANT

Vs

State Of West Bengal & Anr

RESPONDENT

Date of Decision : 25-01-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 397, 401, 482
Indian Penal Code, 1860 — Section 34, 304B, 498A

Citation : (2023) 01 CAL CK 0074

Hon'ble Judges : Subhendu Samanta, J

Bench : Single Bench

Advocate : Arnab Chatterjee, Dhanasree Biswas, Saswata Gopal Mukherjee,
Saryati Datta

Final Decision : Dismissed

Judgement

Subhendu Samanta, J

This is an application u/s 397/401 read with Section 482 of the Code of Criminal Procedure for quashing a charge sheet being Bishnupur Police Station charge sheet No. 84 of 2013 dated 10th August, 2013 for commission of offence punishable u/s 498A/304B/34 IPC arising out of Bishnupur Police Station Case No. 19 of 2012 pending before the Learned Additional Chief Judicial Magistrate Bishnupur, Bankura being GR Case No. 154 of 2012.

The brief fact of the case is that the present OP No. 2 lodged a written complaint on 22 February, 2012 to the IC Bishnupur Police Station containing inter alia regarding the Dowry Death of his sister-in-law. The marriage between Sister-in-law of respondent No. 2 and one Niladri Bose was solemnised on 27th July 2007. It was alleged that at the time of marriage sufficient amount of dowry was given as per demand but immediately after the marriage the husband and in-laws inflicted torture upon the victim both physically and mentally on the demand of further dowry of Rs.-50,000/- When their demand was not fulfilled she was driven out from her matrimonial home. On 21.02.2012 at about 17.00 hours

when no one was there at her parental house, she committed suicide by setting herself on fire. On the basis of that written complaint Bishnupur Police Station Case No. 19 of 2012 dated 22 February, 2012 was started u/s 498A/304B/34 IPC against the husband and in-laws. The investigation of the police ended in charge-sheet. Hence this revision for quashing the charge sheet.

Learned Advocate appearing for the petitioner submits that the present petitioners are the brothers of the husband of the victim. They further submitted before this court that the petitioners never demanded any money from the parents of the victim nor they inflicted or instigated any kind of torture upon the victim at any point of time. It is positive case of the petitioners that due to job purpose, they could not able to visit their native place more than once in a year but still the investigating officer implicated themselves as accused in connection with the instant case. They further submits that the present petitioner are totally innocent and they were never involved in day to day alleged torture whether physically or mentally upon the victim. It is the argument of the Learned Advocate appearing for the petitioner that the investigating officer without conduct a proper investigation submitted charge sheet and wherein the present petitioners were arrayed as an accused being only the in-laws of the victim. It is the case of the petitioner that the matrimonial house of the victim was at Bishnupur, Bankura but the present petitioner were residing at New Delhi and Calcutta respectively in a separate mess. They have no connection regarding day to day family affairs of the victim and her husband. So, the petitioners prayed for quashing the charge sheet against them.

Learned Advocate appearing on behalf of the State submits that the death of the victim was caused within the 07 years from the date of marriage. Accordingly, the ingredients u/s 498A/304B is very much well established. He again argued, during the course of investigation police has collected several materials regarding involvement of the in-laws of the victim in the alleged commission of offence. He further submitted before this court that the statement of available witness disclosed the involvement of the each and every accused including the present petitioner. The police has also collected the medical papers and post mortem report of the victim. At this juncture the evidence so collected by the I.O. during the course of investigation cannot be brushed aside. So he prayed for rejection of the instant criminal revision.

Heard, the Learned Advocate perused the materials on record. This is an application for quashing the criminal proceeding including the charge sheet of a criminal case initiated u/s 498A/304B of IPC. The present petitioners are the brothers of the husband of the victim. On perusing the CD it appears that the police has collected materials regarding the involvement of the present petitioner in the alleged offence. The available witnesses stated the name of the present petitioners to be involved in the alleged offence. Thus, there are prima facie materials against the present petitioners.

According to the provisions 482 of the Criminal Procedure Code this court has its

inherent power to quash a criminal proceeding if it appears to be malicious or out of grudge. The grounds for quashing a criminal proceeding has discussed by the Hon'ble Apex Court in several judgments including State of Haryana Vs. Bhajanlal. The parameters for quashing a criminal proceeding was well discussed in para- 108 of Bhajanlal's case. It has to be proved that the proceeding of a criminal case before the trial court is abuse of process of court. In this case there is nothing in the record to disbelieve the materials and evidences collected by the I.O. during the course of investigation. It may be the facts that the present petitioners were permanent resident of elsewhere than the matrimonial house of the victim; but admittedly the present petitioners are the in-laws of the victim. Considering the statement of available witnesses it appears that the prima facie involvement of the present petitioners are very well established. Considering the same I find no justification to invoke the inherent power of this court to quash the criminal proceeding.

Hence the instant criminal revision appears to be devoid of merit and liable to be dismissed. In result thereof CRR is dismissed.

Pending connected CRAN applications if any, is also disposed.

Any order of stay passed by this Court during the continuation of the CRR is also vacated.

Parties to act upon the server copy and urgent certified copy of the judgment be received from the concerned Dept. on usual terms and conditions.