

(2010) 06 CAL CK 0042
In the Calcutta High Court
Case No : C.R. R. No. 3546 of 2008

Subhasish Ganguly

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 30-06-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125, 156(3), 482
Penal Code, 1860 (IPC) — Section 34, 341, 406, 414, 427

Citation : (2010) 06 CAL CK 0042

Hon'ble Judges : Prasenjit Mandal, J

Bench : Single Bench

Advocate : Jagannath Ganguly, for the Appellant; Atarup Banerjee, for O.P. Nos. 2, 3 and 4, for the Respondent

Final Decision : Dismissed

Judgement

Prasenjit Mandal, J.—This is an application u/s 482 of the Code of Criminal Procedure, 1973 praying for re-investigation of the G.R. Case No. 781 of 2007 pending before the learned Additional Chief Metropolitan Magistrate, Calcutta, by another investigating agency other than the previous investigation agency.

2. The short fact of the case is that the petitioner was married to one Chaitali Ganguly on 08.05.2002 by way of registration under the Special Marriage Act, 1954. Thereafter a social marriage was held between the two on 24.07.2002. After the marriage, both the parties began to reside together at the house of the husband. The petitioner/husband noticed that his wife is very adamant, idle nature, rude in speech, etc. She disclosed that she was forced to marry with the petitioner by her father and that the marriage was performed against her will. One child was born in the wedlock but the difference between the two continued. Ultimately, on 03.02.2005 the wife left her matrimonial home. The petitioner tried to reconcile with her in vain. Ultimately, the husband/petitioner filed a suit for divorce on 01.04.2005.

3. As a counter-blast, the wife filed one complaint case u/s 498A/406/34 of the

I.P.C. on 21.11.2005 and that petition of complaint was sent to Shyampukur police station for investigation u/s 156(3) of the Cr.P.C. That case was ended into chargesheet. Now that criminal case is pending before the learned Metropolitan Magistrate, Fifteenth Court, Calcutta. The wife also filed another application u/s 125 of the Cr.P.C. before the learned Chief Metropolitan Magistrate, Barasat. The husband is contesting both the cases.

4. However, the husband suffered injury by an accident on 21.06.2006 and he was admitted to S.S.K.M. hospital. Operation was held thereafter. But the wife did not look after him at all.

5. On 19.08.2006, while the husband and his mother went to S.S.K.M. hospital for his routine check up, at that time the wife, with the help of her relations and others, came to the house of the petitioner and stayed there. Finding no other alternative even at the intervention of the well-wishers, the husband began to reside at Salt Lake. The husband and his mother lodged several complaints but the police did not pay any heed.

6. Finding no other alternative way, the husband filed another application u/s 156(3) of the Cr.P.C., 1973 for investigation by police for the offences under Sections 341/406/414/427/448/506 read with Section 34 of the I.P.C. That petition of complaint was sent to the Shyampukur police station. But the police never enquired of the husband or his mother. Under compelling circumstances, the husband and her mother filed a writ petition before the Hon''ble High Court and on the basis of the order in the said writ petition the husband and his mother were able to make entry into their house. On 01.10.2007 police filed a Final Report and prayed for discharge of the accused persons. The petitioner filed one naraji petition but the police did not take any action. Thereafter the petitioner filed one revisional application before the Hon''ble High Court and the said revisional application was disposed of directing for re-investigation by another sub-inspector other than the previous investigating officer of the same police station.

7. Now the petitioner has come up for giving directions for re-investigation by another police officer other than the police officers of Shyampukur police station.

8. After hearing the submission of the learned Advocate of both the sides and on perusal of the materials placed in support of the case, I find that the petition of complaint filed by the husband was sent to Shyampukur police station for investigation by an order dated 22.06.2007 passed by the learned Additional Chief Metropolitan Magistrate, Calcutta. Police investigated the case and submitted a Final Report on 01.10.2007. Thereafter, he filed one naraji petition and as no step was taken on that petition, the husband filed one revisional case No. 2638 of 2008 for direction of re-investigation by another sub-inspector other than the previous I.O. of the same police station. That prayer was allowed directing re-investigation by another sub-inspector other than the previous I.O. of the said police station. Now the husband has prayed for re-investigation by

another investigating agency other than the previous investigating agency of the Shyampukur P.S.

9. Every police station has its own jurisdiction to deal with the criminal matters. Unless and until any specific allegation is made or any gross violation of the duty on the part of the police personnel is shown, it will not be proper to appoint another investigating agency other than the police officers of the Shyampukur P.S. Therefore, I am of the view that the petitioner has not made any satisfactory ground for transfer of the Shyampukur P.S. case No. 98 of 2007 to another P.S. other than the Shyampukur P.S. I, therefore, hold that this application is devoid of merits. It is, therefore, dismissed.

10. Considering the circumstances, there will be no order as to costs.

11. Urgent xerox certified copy of this order, if applied for, be supplied to the learned Advocates for the parties on their usual undertaking.