

Order dated 30.07.2024

Today is fixed for order.

The accused file hazira.

Hd Ld APP in charge and Ld Advocate for the accused on the previous occasion.

Accused no.1, 2 & 3 files hajira. Accused no.4 files time petition. The same is allowed.

The accused no.1 & 3 have filed a petition under section 239 of CR.P.C, paying for discharge from this case.

Ld APP in charge submitted that there are substantial materials collected against the accused persons, and without appreciation of those materials during trial, the accused should not be discharged.

Ld Advocate for the accused no. 1 & 3 submitted that, these accused persons are the in laws of the defacto complainant and no concrete allegations have brought home against these accused persons and in the materials collected during investigation. Most of the allegations are false and these accused persons have no role to play any of the allegations made by the defacto. This is the fit case of discharge of these accused persons as there is no probable ground to continue with the trial against these accused persons.

Ld. Advocate for accused no. 1 & 3 has relied upon the decision in (1979) 3 SCC 4 and (2002) 2 SCC 135.

HD. Cd. Perused the entire case record and the CD which is produced from the CD section.

The de- facto complainant has filed the FIR I/C Narendrapur alleging many offences against her husband and in laws and the Investigating Officer has filed the charge sheet u/s 498A/406/34 of IPC.

The accused no. 1 is the husband, accused no.2 is father in law, accused no.3 the mother in law and accused no.4 the brother in law of the defacto complainant.

An offence u/s 498A IPC is an offence of cruelty by husband and relatives of husband. Such an offence is usually committed within the confines of the four walls of a domestic house. It is wrong to say it outright that all the in laws are definitely involved in such offence but it would also be too lenient a view to say that the in laws should not be at all incriminated in such offence because they are the in laws. The legislatures in their wisdom have made provision for such an offence because women of this country are suffering at the hands of their own family.

Now as to the submission of the Ld. Advocate of accused no. 1 & 3 that the accused persons being the mother and father in law and their being no cogent materials against them, they should be discharged from this case.

It would not be prudent to discuss all the evidence at this stage only but from the materials in the CD and the record there enough materials against accused no.1 & 3 to go for a trial. These materials have to be analyzed and appreciated at the stage of the evidence, and without which the accused no. 1 & 3 cannot be discharged at this stage.

As rightly referred to by the Ld. Advocate in the above noted cases, every accused can be discharged by the Court if after appreciation of the documents and materials under section 173 of CrPC, no prima facie case is made out against the accused persons to go for a trial. But, the occasion arises only if there are no cogent evidence to go for a trial.

As already discussed this Court finds enough materials to go for a trial and the above reference of the Ld. Advocate is not tenable in this situation.

Considering the above discussion the petition filed by the accused under section 239 Cr.p.C, is hereby rejected on contest.

Return CD.

BC to do the needful.

To 04.10.2024 for framing of charge.

A.C.J.M, 2nd Court, Baruipur
JO Code WB01175