

Sessions Case No. 27 of 2023  
CNR Number WBBK090000932023

Arising out of Simlapal P.S. case no. 132 of 2022 dated 17.12.2022 U/s 498A/302/109/34 of IPC corresponding to GR case no. 768/2022

Order Number 17  
Dated -06.09.2023

To day is date fixed for appearance of the accused persons and passing of order in respect of petition dated 11.05.2023 filed by prosecution.

Accused persons are present by filing hazira.

Learned public Prosecutor In-charge of this case is present.

Learned Advocate for accused persons is present.

Record is taken up for passing order in respect of petition dated 11.05.2023 filed by prosecution.

Learned Public prosecutor In-charge of this case has argued that accused persons and victim, in this case and in G.R. Case number 113 of 2022, Simlapal Police Station Case Number-16 of 2022 dated 23.08.2022 under section 498A/323/34 of IPC are same, and the alleged incidents amount to commission of offence of cruelty against victim by accused persons covered under section 498A /34 of IPC and date and time of the beginning of the commission of the offence of cruelty in the both case are same, and it happened in the course of same transaction and in the interest of justice, avoidance multiplicity of trial and fairness it is necessary to conduct joint trial of both the cases. He prays for passing order for joint trial of this case and G.R. Case number 113 of 2022,

Simlupal Police Station Case Number -16 of 2022 dated 23.08.2022 under section 498A 323/ 34 of IPC.

Learned advocate for accused persons has argued that separate trial for distinct offence is the rule, and this court should consider the same. He has further argued that basically the allegations in both the cases are distinct and evidences in both the cases are also different, so joint trial of both cases will prejudice the accused persons. He has further argued that, joint trial of two cases are not mandatory provision as may word has been used in the relevant provision, so separate trial of both cases will not prejudice the prosecution. He has further argued that from the facts of both cases, it is clear that there are no any substantial similarity so there is no question of same transaction. He prays for rejecting the petition dated 11.05.2023 filed by Prosecution.

I have heard submissions of the learned Public Prosecutor In-charge of this case, learned advocate for accused persons and perused the records including records of G.R. Case number 113 of 2022, Simlupal Police Station Case Number -16 of 2022 dated 23.08.2022 under sections 498A/323/34 of IPC. From the contents of G.R. Case number 113 of 2022, Simlupal Police Station Case Number-16 of 2022, dated 23.08.2022 under sections 498A/323/34 of IPC, it is revealed that there are allegations against the accused persons that since after marriage of victim Jhumpa Singha Mahapatra with accused Ranapratap Singha Mahapatra on 27.06.2020, all the accused persons started torturing victim Jhumpa Singha Mahapatra physically and mentally, and in that case charge sheet

has been filed against the accused persons under section 498A/34 of IPC being charge sheet number 13 of 2022 dated 20.04.2022, and in that cognizance has been taken by the learned Additional Chief Judicial, Khatra on 27.04.2022 and matter is pending before Learned ACJM, Khatra and trial of that case has not yet begun. From the records of this case, it is revealed that there are allegations against the accused persons that they tortured Victim Jhumpa Singha Mahapatra mentally and physically since her marriage with accused Ranapratap Singha Mahaparta and lastly on 15.12.2022 victim Jhumpa Singha Mahapatra was died by hanging, and in this case charge-sheet has been filed against accused persons being charge-sheet number 24 of 2023 dated 28.02.2023 for commission of offence under section 498A/306/34 of IPC and records of this case is committed to this court on 14.03.2023 by the learned A.C.J.M, Khatra and it is pending at the stage of consideration of charge.

Under section 223(d) of Cr.P.C. persons accused of different different offences committed in the course of same transaction may be charged and tried together. The term “same transaction” is incapable of exact definition and ordinary use of language must decide whether on the facts of particular case held to be in same transaction and it is purely a question of fact. From the records, it is revealed that in both the cases there are allegations against accused persons that they tortured the victim Jhumpa Singha Mahapatra mentally and physically since after her marriage that was from 27.06.2023 with accused Ranapratap Singha

Mahapatra at her matrimonial house. From the records, it is revealed that in both the cases accused persons, place of occurrences, beginning of the incidents amount to torture upon victim by accused persons are same, and victim in both the cases is same. It means in both the cases there is proximity of time, proximity of place of occurrence and continuity of actions of torture upon victim by accused persons upon victim. From the contents of allegations against the accused persons in both the cases, it is clear that acts of accused persons against victim in both the cases are connected with one another, there is commonality of purpose of acts of accused persons and communality of design of the acts of the accused persons in both the cases, and substantial acts committed in both the cases are committed in the course of same transaction.

With above observations, I am of the view that in the light of the provision of section 223(d) of Cr.P.C, for avoiding multiplicity of trial, in the interest of justice, fairness, for avoiding judicial delay, it will be justified to charge and try together the accused persons in (i) G.R. Case number 113 of 2022, Simlapal Police Station Case Number -16 of 2022 dated 23.08.2022 under sections 498A/323/ 34 of IPC and in (ii) S.C. Case Number 27 of 2023 CNR Number WBBK090000932023 GR Case number 768 of 2022, Simlapal P.S. Case Number 132 of 2022 dated 17.12.2022 under section 498A/302/109/34 of IPC.

With above observation Petition dated 11.05.2023 filed by Prosecution is allowed on contest.

Let the records of G.R. Case number 113 of 2022, Simlapal Police Station Case Number-16 of 2022 dated 23.08.2022 under sections 498A/323/34 of IPC be returned to learned trial court.

Learned A.C.J.M, Khatra, Bankura is requested to transfer the records of G.R. Case number 113 of 2022, Simlapal Police Station Case Number -16 of 2022 dated 23.08.2022 under sections 498A/323/34 of IPC to this court for the purpose of charge and trial of said case together with this case.

Fix 12.01.2024 for appearance of accused persons, consideration of charge and receiving of records of G.R. Case number 113 of 2022, Simlapal Police Station Case Number -16 of 2022 dated 23.08.2022 under sections 498A/323/34 of IPC from the Learned A.C.J.M., Khatra, Bankura.

Let the copy this order be sent to the learned A.C.J.M, Khatra for necessary action.

Dictated & corrected by me

A.S.J.  
Khatra, Bankura

Additional Sessions Judge,  
Khatra , Bankura  
J.O. Code- WB01399