

Order No.30 dt.31.01.24.

Today is fixed for hearing of the petition u/s 227 Cr.PC.

Accused on bail is present.

Petition u/s 227 CrPC filed on behalf of the accused is taken up for hearing.

Heard both sides.

Perused the petition. Considered.

Ld advocate for the accused submitted that the FIR was lodged by father of the deceased who died due to stove burst while cooking. Deceased was hospitalized by her husband of the accused. Husband also informed father of the deceased but father of the deceased with mala fide intention and with intention to extort money filed this case. Accused is innocent and he has not committed any offence. It is further submitted by the Ld advocate for the accused that on going through the document u/s 173(2) of CrPC, no prima facie case is made out against the accused. The charge sheet submitted by the IO u/s 306 and 304B of IPC without investigating whether the incident is a case of suicide or a case of accidental death. The incident took place after more than 7 years of marriage and so section 304B is not applicable. The post mortem report do not reveal any other injury except the burn injury. No evidence is there that the victim was provoked or instigated or humiliated for which she committed suicide. No evidence on the point of torture except the statement of father of the victim. Accordingly, Ld advocate for the accused submitted that the accused is fit to be discharged from this case.

Ld PP in charge raised strong objection against such petition and submitted that the incident took place on 14.02.18 after getting the news from the accused, father of the victim came to see his daughter in hospital. His daughter told him that she committed suicide by setting fire in her own body as she could not bear the torture inflicted upon her by husband. Accordingly, the complaint was lodged on 28.02.18 by the complainant after death of victim in hospital on 27.02.18. Ld Public Prosecutor further submitted that there are evidences collected by the IO which clearly shows that this is not a case of stove burst. The neighbouring people are the prime witnesses who have given details of the incident and prior disturbance amounting to torture upon the victim in her matrimonial home which ultimately culminated by commission of suicide by the victim. It is also submitted that the death took place within 7 years of marriage of the victim with the accused and as such there are sufficient material for framing charge against the accused for offence u/s 498A/304B of IPC. Accordingly, Ld PP in charge raised strong objection against the petition u/s 227 of CrPC.

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Considering the submissions of both sides and on going through the material on CD, I find that there are sufficient materials in the CD appearing in the accused for framing charge against him for offence punishable u/s 498A/304B of IPC. Moreover, the incident appears to have taken place within 7 years of marriage. As such considering those materials, I am not inclined to allow the prayer of the accused u/s 227 of CrPC. Thus, petition u/s 227 of CrPC is considered and rejected.

Case is taken up for framing of charge.

Heard both sides.

Perused the materials on CD. There are prima facie material for framing charge against the accused for offence punishable u/s 498A/304B of IPC. Accordingly, charge is framed against the accused for offence punishable u/s 498A/304B of IPC. Charge written in a separate sheet, kept with the record.

Substance of charge is read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

Fix 08.04.2024 for evidence of CSW1.

Prosecutor to take steps accordingly.

Addl. Sessions Judge,
2nd Court Howrah.