

CRR 288 of 2022

11.02.
2022

In the matter of:- Sarajit Banik & Anr.

Ms. Srabani Biswas
.....for the petitioners

This is an application praying for quashing of a proceeding in which a charge sheet was submitted under Sections 313, 376 and 417 read with Section 120B of the Penal Code.

Learned counsel for the petitioners submits as follows. The petitioner no. 2 is the mother of the petitioner no. 1. The petitioner no. 1 and the de facto complainant/opposite party no.2 were colleagues, working in the same office. They had developed a relationship, even a physical one. This resulted in conception. The pregnancy was terminated on mutual consent. Nowhere in the FIR it has been alleged that the physical relationship between two was not consensual and was actuated by coercion. The only allegation against the petitioner no 2 is that some of such acts took place in the house where she stayed. No prima facie case is made out as would be evident from a plain reading of First Information Report and the charge sheet. Any further continuation of the impugned proceeding shall

be an abuse of the process of the Court.

Since an arguable case is made out by the petitioner, the same needs to be heard at length.

Let the petitioner serve a copy of this application upon the State through learned Public Prosecutor and upon the opposite party by speed post with acknowledgment due within a week and file an affidavit of service to that effect on the next date.

Let this matter appear as a “Contested Application” three weeks hence.

The impugned proceeding shall remain stayed for a period of six weeks from this date.

The parties shall be at liberty to pray for extension or modification or vacating of the interim order upon notice to other side.

The State shall produce the case diary on the next date.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)