

23.08.2022
Item No.32.
Mithun
Ct.42

CRR 2667 of 2022
R.K. Pandey & Anr.
Vs.
State of West Bengal & Anr.

Mr. Manjit Singh, Adv.
Mr. Gaganjyot Singh, Adv.
Mr. Biswajit Mal, Adv.

...for the petitioners.

The petitioners are the parents-in-law of the opposite party No.2. It is alleged by the petitioners that marriage of their son was solemnized with opposite party No.2 on 25th June, 2019. The husband of the opposite party No.2 is an Orthopedic Surgeon attached to Stanford University, San Francisco, USA. It is alleged that after 28 days of marriage, the husband of the opposite party No.2 left India. The opposite party No.2 followed him and stayed together for about 22 days. Subsequently she returned to India from USA. Some matrimonial disputes cropped up between the opposite party No.2 and her husband. Her husband filed a Matrimonial Suit praying for dissolution of marriage against the opposite party no.2 in the jurisdictional Court at Benaras, Uttar Pradesh. Subsequently the

opposite party no.2 lodged FIR against her husband and the present petitioners alleging commission of offence under Section 498A and other coordinate provisions of the Indian Penal Code before the jurisdictional police station at Benaras. She also filed an application under PWDV Act at Benaras.

The said proceedings are pending in different courts having jurisdiction to try the said proceedings in Uttar Pradesh. Suppressing all such facts and during pendency of a case under Section 498A of the Indian Penal Code in Uttar Pradesh, the opposite party No.2 lodged a written complaint on 5th May, 2022 with the Officer-in-Charge of Baguiati Police Station against the petitioners and her husband under Section 498A/406/34 of the Indian Penal Code. Police registered Baguiati Police Station Case No.201 of 2022.

The present petitioners are parents-in-law of the opposite party No.2.

It is submitted on behalf of the petitioners that they never stayed with the opposite party No.2 at any point of time within the jurisdiction of Baguiati Police Station. Therefore, question of perpetrating cruelty upon the opposite party No.2

by the petitioners within the jurisdiction of Baguiati Police Station does not arise. The petitioners were never served any notice under Section 41A of the Code of Criminal Procedure prior to conducting raid and seizure of gold ornaments from the house of the petitioners at Benaras. In other words, Investigating Officer was so overzealous that before issuing any notice under Section 41A, he proceeded to seize gold ornaments and other valuables from the house of the petitioners. In fine, it is submitted by the learned Advocate for the petitioners that Baguiati Police Station has no jurisdiction to investigate into the case as no part of offence was committed within the jurisdiction of the said Police Station. Therefore, the petitioners have approached this Court for quashing of the FIR.

The instant revision be admitted.

The petitioners are directed to serve notice upon the opposite party No.2 under registered speed post with acknowledgment due and file affidavit of service within 3 weeks from the date of this order.

The State of West Bengal be served through the learned Public Prosecutor, High Court, Calcutta.

In the meantime, there shall be stay of further investigation in connection with Baguiati Police Station Case No.201 of 2022 under Sections 498A/406/34 of the Indian Penal Code read with Section 377 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act for a period of six weeks.

Liberty to mention.

(Bibek Chaudhuri, J.)