

13.02.2023
Item No.25.
Suman
Ct.42

CRR 3870 of 2022

Md. Samsul Islam
Vs.
The State of West Bengal and Anr.

Mr. Pawan Kumar Gupta
Mr. Rezaul Hossain
Mr. Parvez Hossain
Mr. Mujibar Ali Naskar
...for the petitioner

Marriage of the petitioner was held with the opposite party No.2 under Mohammedan rites and customs on 28th January, 2013 and said marriage was duly registered before the Registrar under the Mohammedan Personal Law. In the said marriage registration certificate age of the petitioner was shown as 18 years on the date of marriage. Subsequently, the petitioner came to know that she did not attain the age of 18 years on the date of the her marriage with the petitioner i.e., on 28th January, 2013. Thereafter, he again contacted marriage with the opposite party No.2 on 30th July, 2016 on her attaining age of 18 years. It is further stated that the petitioner has obtained Ph.D in Nuclear Physics from Saha Institute of Nuclear Physics and he has been

pursuing his further research work in Geneva, Switzerland. While in Geneva he was informed that the opposite party No.2 had been maintaining steady relationship with another person over telephone. Therefore, he decided to repudiate the marriage with the opposite party No.2 by Talaque e Hasan. He gave two notices after the interval between two Iddats. Thereafter he returned to this country. He was again united with the opposite party No.2. Subsequently, the opposite party No.2 suppressing the facts of the marriage with the petitioner filed an FIR in Bidhannagar Women Police Station. On the basis of which, P.S. Case No. 31 of 2021 dated 23rd December, 2021 under Sections 376/313/417/323 of the Indian Penal Code read with Section 8 of the POCSO Act is registered. Charge sheet has been submitted in the said case. Now, the petitioner has prayed for quashing of the above mentioned criminal case corresponding to Special Case No. 146 of 2021 pending before the learned Additional Sessions Judge, 2nd Court at Barasat.

The instant revision is admitted for hearing.

The petitioner is directed to serve notice upon the private opposite party under registered speed post with A/D and file affidavit of service within three 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, further proceedings in respect of Special Case No.146 of 2021 pending before the learned Additional Sessions Judge, 2nd Court at Barasat be stayed for a period of six weeks.

(Bibek Chaudhuri, J.)