

29.01.2025
Samarpita
Sl.2
Court No.3

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
Criminal Revisional Jurisdiction
Appellate Side**

CRR 34 of 2025

**Nousad Khan @ Md. Nousad Khan & Ors.
Vs.
State of West Bengal & Anr.**

Ms. Esha Acharya,
Mr. Faiz Ahmed

... for the petitioner

Learned Advocate appearing on behalf of the petitioner seeks leave to correct the case number of Siliguri Women Police Station in the cause title as well as in the prayer portion of the petition.

Leave is granted.

This criminal revision has been filed by the petitioners for quashing of the proceedings being G. R. Case No. 4190 of 2024, arising out of Siliguri Women Police Station Case No. 132 of 2024, dated 6th December, 2024 under Sections 85/115(2) of the Bharatiya Nayay Sanhita, 2023 (*in short*, 'BNS') read with Section 3/4 of the Dowry Prohibition Act, 1961, (*in short*, 'D.P. Act') pending before the Court of learned Additional Chief Judicial Magistrate, at Siliguri, Darjeeling.

Ms. Esha Acharya, learned Advocate appearing for the petitioners submit that at first a complaint was lodged by the opposite party no.2-*de facto* complainant on 24th November, 2024 before the

Siliguri Police Station registered as Case No. 1063 of 2024 under Sections 85/115(2) of BNS read with Sections 3/4 D.P. Act. Subsequent thereto, a second complaint has been lodged by the opposite party no.2-*de facto* complainant on 6th December, 2024 before the Siliguri Women Police Station registered as Case No. 132 of 2024 on selfsame cause of action. Relying a decision of the Hon'ble Supreme Court passed in ***T.T. Antony -versus- State of Kerala & Ors.*** reported in ***(2001) 6 SCC 181***, she submits that the second F.I.R. lodged on the self-same cause of action is not sustainable in the eye of law. She seeks for stay of all further proceedings in respect of the second F.I.R.

Upon perusal of the records, it is found that on 24th November, 2024 the opposite party no. 2-*de facto* complainant lodged a written complaint against the petitioner nos. 1, 2, 3, 6 and 7 which was registered as Siliguri Police Station Case No. 1063 of 2024 under Sections 85/115(2) of the BNS read with Sections 3/4 of the D. P. Act. Thereafter, the complainant lodged another complaint before Siliguri Women Police Station registered as Case No. 132 of 2024 on 6th December, 2024 against all the petitioners under the similar offences i.e. 85/115(2) of BNS read with Sections 3/4 of the D. P. Act. In the aforesaid backdrop, this Court finds that an arguable case has been made out on behalf of the petitioner relying on *T.T. Antony (Supra)*.

Accordingly, the criminal revision is admitted.

Issue notice upon the opposite parties.

Petitioner is directed to serve notice along with copy of the application upon the State through the Office of the learned Additional

Public Prosecutor, Circuit Bench of Calcutta High Court at Jalpaiguri and upon opposite party No.2 through registered speed post with acknowledgement due within a week and file affidavit-of-service to that effect on the returnable date.

Accordingly, there shall be stay of all further proceedings being G. R. Case No. 4190 of 2024, arising out of Siliguri Women Police Station Case No. 132 of 2024, dated 6th December, 2024 under Sections 85/115(2) of BNS read with Section 3/4 of the D.P. Act pending before the Court of learned Additional Chief Judicial Magistrate, at Siliguri, Darjeeling, for a period of six weeks or until further order whichever is earlier.

Parties shall be at liberty to pray for modification, variation and/or vacating of the order upon notice to the other side.

Let this matter appear before the next available Circuit Bench.

(Bivas Pattanayak, J.)