
Vidhya Devi Vs State And Others

S.B. Criminal Miscellaneous (Petition) No.1744 Of 2021

Court: Rajasthan High Court

Date of Decision: Dec. 22, 2022

Acts Referred:

Code Of Criminal Procedure, 1973 " Section 246, 313, 482#Indian Penal Code, 1860 " Section 114, 494

Hon'ble Judges: Dr.Pushpendra Singh Bhati, J

Bench: Single Bench

Advocate: Tejmal Ranka, A.R. Choudhary, A.D. Ujjwal

Final Decision: Dismissed

Judgement

Dr.Pushpendra Singh Bhati, J

1. This Criminal Misc. Petition under Section 482 Cr.P.C. assails the order, dated 18.02.2021, passed by the learned Judicial Magistrate, Barr whereby

the application under Section 246 and Section 313 Cr.P.C. preferred by the petitioner was rejected; and seeks to recall the testimonies of the accused,

being respondents No. 2 and 3 Narayan Singh and Ghisidevi and for recording their testimonies afresh.

2. Brief facts of the case as placed before this Court by learned counsel for the petitioner are that the petitioner submitted a complaint against the

private respondents for the offences under Sections 494 and 114 IPC before the Judicial Magistrate, Barr. That the marriage between the present

petitioner and the respondent no.2 was solemnized, as per Hindu rites and rituals, and of the wedlock two children were born to them. That the

streedhan of the petitioner (wife) was illegally taken by the respondent no. 2 (husband) and his family and the petitioner was ousted from her

matrimonial home. Thereafter, the respondent no. 2 (husband) married the respondent no.3.

2.1 That at the pre-trial stage, the examination-in-chief of the petitioner was conducted on 09.11.2017 and her cross examination was conducted on

28.03.2019. And that the testimony of P.W.2-Dudh Singh and P.W.3-Lakshman Singh was conducted on 01.12.2017. On the basis of such

statements, charges were framed, against the private respondent for the offences as aforementioned. That after charges were framed, the petitioner

was re-examined on 16.01.2020.

2.2 That after evidence on the basis of the testimony of witnesses, the statement of the accused (private respondents) was sought, under Section 313

Cr.P.C.

2.3 That the petitioner preferred an application under Section 246 and Section 313 Cr.P.C. and the same was rejected by the learned Court below vide

the impugned order dated 18.02.2021.

3. Learned counsel for petitioner submitted that the learned Court below has committed a grave error of law by not appreciating the wide contours

and objective of Section 313 Cr.P.C.

4. Learned counsel for petitioner further submitted that the learned Court below has committed grave error because pre-charge statement recorded by

learned Court below was not produced before the accused-respondents at the time of recording the statement under Section 313 Cr.P.C.

4.1 Learned counsel, in support of such submissions, placed reliance on the judgment rendered by a Division Bench of this Hon'ble Court in the

Case of Ranjeet Singh Vs. State of Rajasthan (D.B. Criminal Appeal No.616 of 2001) decided on 04.05.2005; and another judgment rendered by a

Division Bench of this Hon'ble Court at Jaipur Bench in the case of Pooriya Vs. State of Rajasthan (D.B. Criminal Jail Appeal No. 159 of 1998)

decided on 25.02.1993.

5. On the other hand, learned Public Prosecutor as well as the learned counsel for the private respondents opposed the submissions made on behalf of

the petitioner, and submitted that the learned Court below has rightly passed the impugned order, dated 18.02.2021, after looking into the overall facts

and circumstances of the present case, and the evidences placed on the record.

6. Heard learned counsel for both parties as well as perused the record of the case, alongwith the judgments cited at the Bar.

7. This Court, looking into the factual matrix of the case and the stage thereof, observes that the learned Court below has rightly passed the impugned

order, rejecting the application preferred on behalf of the petitioner, while observing that the case was pending in since 2006 and that the filing the

application at this stage is an abuse of the process of law.

8. This Court finds that the present case is pending since 2006 and trial is still pending for last 16 years, and thus, filing of the application, which was

rejected by the learned court below vide the impugned order, appears to be an attempt to prolong and delay the trial.

9. The judgments cited at the Bar by learned counsel for the petitioner do not render any assistance to the case of the petitioner.

10. In view of the above, this Court finds that the impugned order does not suffer from any legal infirmity so as to call for any interference therein, at

this stage.

11. Consequently, the present petition is dismissed. All pending applications stand disposed of.