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(2012) 07 CAL CK 0219

Calcutta High Court

Case No: C.R.R. 3612 of 2011

Abdul Hannan	APPELLANT
Vs	
The State of West Bengal	RESPONDENT

Date of Decision: July 18, 2012

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 397, 401, 482
- Penal Code, 1860 (IPC) - Section 34, 498, 498A

Hon'ble Judges: Dipak Saha Ray, J

Bench: Single Bench

Advocate: Susmita Saha Dutta, for the Appellant;

Judgement

Dipak Saha Ray, J.
The present case arises out of an application u/s. 397/401 of the Code of Criminal Procedure read with Section 482 of the Code of Criminal Procedure, 1973. It is directed against an order dated 21.07.2011 passed by the Ld. Chief Judicial Magistrate, Malda in G.R. Case No. 1702 of 2007 arising out of Harishchandrapur Police Station Case No. 106 of 2007 dated 02.09.2007 u/s. 498A/34 of the Indian Penal Code.

2. The relevant facts of the present case are, in a nutshell, as follows :

One Renu Khatun lodged a written complaint with the Officer-in-Charge, Harishchandrapur Police Station alleging inter alia, that she was married with Abdus Salam on 30.07.2007 and after her marriage her husband and in-laws i.e., the parents and brothers of her husband started inflicting torture on her due to non fulfillment of their demand of more ornaments, furniture, motor cycle etc. Ultimately, she left her matrimonial home as she could not endure the cruelty inflicted on her by the accused persons. Accordingly, Harishchandrapur Police Station Case No. 106 of 2007 dated 02.09.2007 u/s. 498/34 I.P.C. was started. Police investigated the case and after completion of

investigation charge-sheet was submitted against the husband, father-in-law and brother-in-law (present accused) of the defacto complainant u/s. 498A/34 of the Indian Penal Code. After submission of charge-sheet, the accused/petitioner herein surrendered before the Ld. Court and was granted bail and was all along on bail till the date of passing the impugned order in the matter of issuance of warrant against him.

3. Being aggrieved by and dissatisfied with the said impugned order dated 21.07.2011, the petitioner has filed the instant application.

4. It is the case of the petitioner that due to high blood pressure, he failed to attend the Court on the dates fixed though he filed petitions though his Ld. Lawyer; but the Ld. Court without considering the aforesaid facts and circumstances passed the impugned order of issuance of warrant of arrest against the present petitioner. Accordingly, it is alleged, that the said order dated 21.07.2011 thus suffers from inherent impropriety and as such the revisional application has been filed praying for setting aside of the same.

5. It is submitted by the Ld. Counsel for the petitioner that the Ld. Chief Judicial Magistrate failed to appreciate the problem of the present petitioner in its proper perspective. It is further submitted on behalf of the petitioner that the fact that the present petitioner was suffering from high blood pressure, could not be appreciated by the Ld. Court.

6. After hearing the Ld. Counsel for the petitioner and taking into consideration of all relevant facts and materials, I think that the only point requiring adjudication by this Court is whether or not the impugned order dated 21.07.2011 is liable to be set aside.

7. Now on perusal of the impugned order dated 21.07.2011 with reference to the previous orders passed by the Ld. Court from 13.08.2008 to 27.06.2011, it is evident that after releasing on bail the petitioner herein never attended the Court. It further appears that the accused/the petitioner herein, was given more than sufficient opportunities to appear before the Court. It further appears that the record does not go to show that any document was produced at any point of time before the Court to establish that the accused was suffering from High Blood Pressure.

8. Considering the submission of the Ld. Counsel for the petitioner and taking into considering all relevant facts and materials, I do not think that the order which has been sought to be assailed suffers from any such illegality or impropriety which demands interference by this Court.

9. However in the interest of justice the petitioner is directed to surrender before the Ld. Chief Judicial Magistrate, Malda on or before 07.08.2012 and if any bail application is filed by the accused/petitioner, the Ld. Chief Judicial Magistrate, Malda will consider the same in view of the fact that he had earlier been granted bail on the very date of his surrender after submission of charge-sheet and he had by this time realized the consequence of non-attendance before the Court on the date fixed.

10. The revisional application is disposed of accordingly. There is no order as to the cost.

11. Let a copy of this judgement be sent to the Learned Court for information and necessary action. Urgent photastat certified copy of this judgement be supplied to the parties, if applied for, subject to compliance with all necessary formalities.