

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 1284 of 2019

Sampa Deb (Basu)

Vs.

The State of West Bengal & Anr.

For the Petitioner : Mr. Pradip Kr. Mandal.

For the State : Mr. Saswata Gopal Mukherjee, ld. PP
Ms. Rita Datta.

**For the Opposite Party
No. 2** : None.

Hearing concluded on : 14.09.2023

Judgment on : 05.10.2023

Shampa Dutt (Paul), J.:

1. The present revision has been preferred praying for quashing of the proceeding including impugned Charge Sheet No. 648/16 dated 31.03.2016 under Sections 341/323/506 of the Indian Penal Code against the petitioner in respect of the G.R. Case No. 6024 of 2015 whereby

cognizance has been taken by the Learned Chief Judicial Magistrate, Baruipur, South 24 Parganas.

2. The petitioner's case is that her husband Subrata Kumar Dev S/o Late Prabhat Kumar Dev of Baruipur Dattapara, Panchanan Tala Road, Ward No. 8, under Baruipur Police Station lodged a written complaint that his wife and his son were living in his father's-in-law house for six years. When he wanted to keep in touch with his son, he was driven out from the house by his wife. Then his wife came to his house in Baruipur and beat and threatened him. This gave rise to the present case.
3. **The State has placed the case diary along with a memo of evidence.**
4. **In spite of due service, there is no representation on behalf of the opposite party no. 2.**
5. **From the materials on record including the case diary, it appears that:-**
 - i) The parties got married in the year 2001.
 - ii) They had a child/son in 2009.
 - iii) The husband's mother also expired in 2009.
 - iv) The accused/wife's father expired in 2021 at the age of 90 years.
 - v) **Her mother aged 70 years is 100% blind in both eyes.**
 - vi) The petitioner works as a primary school teacher near her parent's house.
 - vii) **None of the complainant's parents are alive.**

- viii) Since the death of his mother, the opposite party no. 2/husband/complainant has been residing with the petitioner/wife's family.
- ix) The dispute as it appears is in respect of selling/retaining the complainant's house.
- x) There does not appear to be any marital problems as no allegations of mental or physical cruelty has been made against the complainant/husband.
6. Such being the situation, the main problem between the parties is regarding their place of stay.
7. But the circumstances in this case clearly support the petitioner/wife herein.
8. **The school where she/wife teaches is near her mother's house, who as seen from the disability certificate filed, is 100% blind in both eyes.**
9. **The complainant/husband's parents are not alive nor is he employed.**
10. **Admittedly, since his mother's death in 2009, he has been residing in the petitioner's paternal home.**
11. Now when the mother of the wife is 100% blind in both eyes, having none to look after and protect her, the opposite party no. 2/husband is being unreasonable.
12. A situation like this undoubtedly requires that a child, the daughter/petitioner herein, will be her mother's mental, physical and

emotional support, more so when the husband having no other family members has been residing with them since 2009.

13. Wife/she is also the sole earning member of the family. Her school is near her mother's house.
14. ***Taking care of one's parents is an emotional and loving act. No force in the world can stop a child from doing it and no child can be forced to do so, if he or she does not want to.***
15. In the case diary there is absolutely no material on record to prima facie substantiate the offences alleged against the petitioner and thus permitting the proceedings to continue will clearly be an abuse of the process of law.
16. **The revisional application being CRR 1284 of 2019 is accordingly allowed.**
17. The impugned proceeding including impugned Charge Sheet No. 648/16 dated 31.03.2016 under Sections 341/323/506 of the Indian Penal Code against the petitioner in respect of the G.R. Case No. 6024 of 2015 whereby the cognizance is taken by the Learned Chief Judicial Magistrate, Baruipur, South 24 Parganas, is quashed.
18. All connected applications, if any, stands disposed of.
19. Interim order, if any, stands vacated.
20. Copy of this judgment be sent to the learned Trial Court for necessary compliance.

- 21.** Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)