

Criminal Revisional
PRESENT: The Hon'ble Justice Ashim Kumar Roy
Judgment On : 08-02-2010.
C.R.R. No. 250 of 2010
Mohidul Mondal & Ors.
versus
The State of West Bengal & Anr.

Point:

Quashing: Question of quashing whether depends on the face of allegations made in the FIR and evidentiary materials collected by the police during investigation- Code of Criminal Procedure, 1973-S.482.

Fact: Invoking Section 482 of the Code of Criminal Procedure the petitioners have moved this Court for quashing of an order for framing of charge under Sections 498A/307/34 of the Indian Penal Code.

Held: The question is whether offence has been made out or not on the face of allegations made in the FIR and out of the evidentiary materials collected by the police during investigation. The question is not to decide which version of the case is true whether the version of the prosecution or that of the version of the defence. (Paragraph - 3)

For Petitioners : Mr. Alokesh Dalai

The Court:

1. Invoking Section 482 of the Code of Criminal Procedure the petitioners have moved this Court for quashing of an order for framing of charge under Sections 498A/307/34 of the Indian Penal Code.
2. The Learned Counsel for the petitioners vehemently contended that there are no materials to support the order of framing of charge under Section 307 of the Indian Penal Code. He further contended that she suffers burn injuries due to the stove burst while she was cooking and was not set to fire by the present petitioners as alleged or at all. According to him, there was also no eyewitnesses to support the prosecution case.
3. I have gone through the First Information Report lodged by the victim herself where it is categorically alleged that the petitioners set her on fire. At this stage, the question is whether offence has been made out or not on the face of allegations made in the FIR and out of the evidentiary materials collected by the police during investigation. The question is not to decide which version of the case is true whether the version of the prosecution or that of the version of the

defence. In this case the submissions made on behalf of the petitioners in support of prayer for quashing are purely their defence and the same can be taken into consideration only during the trial. The only other contention that there was no eyewitnesses to the occurrence, that too is also a defence of the accused and is a matter of trial.

This criminal revision has no merit and accordingly stands dismissed.

The copy of the police papers filed in Court be kept with the records. Criminal Section is directed to deliver urgent Photostat certified copy of this Judgement to the parties, if applied for, as early as possible.
(*Ashim Kumar Roy, J.*)