

16.02.2023.
Court No.13
Item No. 2
ap

W.P.A. No. 20475 of 2021

**Kasmira Bibi
Versus
The State of West Bengal & Ors.**

Mr. Rwitendra Banerjee.

...For the petitioner.

Despite service of this Court's order dated 8th February, 2023 by the police on the private respondents, they are not represented before this Court.

The petitioner has approached the State Legal Services Authority for assistance and counsel has been appointed by SLSA.

A sad state of affairs emerges in the instant writ petition. The petitioner has lodged several complaints against her in-laws, the private respondents herein. She continues to be tortured by them.

Kandi Police Station, Murshidabad Police District has filed a report dated 15th February, 2023 in the form of instructions addressed to the State Advocate.

It appears from the said report that as many as 11 FIRs have been registered against the in-laws, Hasan Sk., Sahatulla Sk., Jamela Bibi, Akbor Sk., and Nusnehar Bibi by the Kandi Police Station. It further appears that 10 of such FIRs have resulted in charge-sheets being:-

1) C.S. No. 208 of 2016 dated 30th March, 2016 under Sections 498A/325/308/34 of the Indian Penal Code against Hasan Sk. and four others.

2) C.S. No. 1106 of 2016 dated 9th December, 2016 under Sections 498A/323/506/34 of the Indian Penal Code against Sahatulla Sk. and three others.

3) C.S. No. 970 of 2016 dated 11th November, 2016 under Sections 498A/323/307/34 of the Indian Penal Code against Hasan Sk. and four others.

4) C.S. No. 866 of 2016 dated 24th October, 2016 under Sections 498A/323/34 of the Indian Penal Code against Hasan Sk. and three others.

5) C.S. No. 298 of 2017 dated 13th May, 2017 under Sections 498A/195A/34 of the Indian Penal Code against Hasan Sk. and two others.

6) C.S. No. 373 of 2017 dated 30th May, 2017 under Sections 498A/323/34 of the Indian Penal Code against Hasan Sk. and four others.

7) C.S. No. 669 of 2017 dated 17th August, 2017 under Sections 376/511 of the Indian Penal Code against Akbor Ali Sk.

8) C.S. No. 104 of 2018 dated 28th February, 2018 under Sections 341/323/354/506/34 of the Indian Penal Code against Hasan Sk. and three others.

9) C.S. No. 618 of 2021 dated 30th November, 2021 under Sections 448/427/195A/506/34 of the Indian Penal Code against Sahadulla Sk. and three others.

10) C.S. No. 5 of 2022 dated 15th January, 2022 under Sections 448/427/506/34 of the Indian Penal Code against Hasan Sk. and five others.

The eleventh FIR being Kandi Police Station Case no. 43 of 2023 dated 1st February, 2023 under Sections 341/448/354/506/34 of the Indian Penal Code has also been registered against Hasan Sk., Sahadulla Sk., Tumpa Bibi and Akbar Sk. The allegations in the last FIR are as serious as the ones which have resulted in the charge-sheets.

This Court is of the view that the said Hasan Sk., Sahatulla Sk., Jamela Bibi, Akbor Sk., and Nusnehar Bibi are guilty of continuous offences against the petitioner.

It is baffling to note as to why Kandi Police Station has not opposed the bail to the accused persons before the Additional Chief Judicial Magistrate concerned and why the ten charge-sheets already filed against the said accused persons were not placed before the Additional Chief Judicial Magistrate concerned.

This Court is of the view that the matter is indeed extraordinary in nature and calls for extraordinary measures. The petitioner is clearly a victim of continuous torture and oppression. The charges under Sections 376 and 354 of the Indian Penal Code have been prima facie established in the investigations by the police.

Such persons cannot be allowed to enjoy any liberty as they continue to be a threat to the petitioner. Such persons do not have any respect for the law. Bail granted to them by the Additional Chief Judicial Magistrate concerned on 6th February, 2023 is hereby cancelled by this Court in exercise of power conferred under Article 226 of the Constitution of India.

Kandi Police Station shall forthwith take the said Hasan Sk., Sahatulla Sk., Jamela Bibi, Akbor Sk., and Nusnehar Bibi into custody. A police picket, comprising of a male and female constable, shall be posted by Kandi Police Station outside the petitioner's residence so that she may live there in peace without threat or intimidation from any persons.

Kandi Police Station shall file a further report before this Court on the adjourned date.

Liberty is reserved to the Counsel for the petitioner to mention the matter in case of any urgency. The petitioner shall be free to use all the amenities in the house.

List the matter on 28th February, 2023.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)