

**CRIMINAL REVISION**

Present: **The Hon'ble Justice Ashim Kumar Roy**

*C.R.R. No. 660 of 2010*

**Judgment On: 31-03-2010.**

*Ashok Das&Ors.*

*versus*

*State of West Bengal*

**POINTS:**

QUASHING- Investigation was conducted perfunctorily and many vital witnesses were not examined- It is a defence of the accused-The latches in investigation, if any, cannot be the ground for quashing of a criminal case-Indian Penal Code,Ss.304B/498A-Code of Criminal Procedure, 1973 S.482

**FACTS:**

The petitioners have approached this Court challenging the order of rejection of the petitioners' prayer for discharge and the order of framing charge under Sections 302/498A/34 of the Indian Penal Code, alternatively under Sections 304B/498A of the Indian Penal Code. The petitioners claim that many vital witnesses have not been examined, according to the 161 statement of the witnesses, this was a case of suicide, the police have not conducted the investigation properly, and, the petitioners are absolutely innocent and have been falsely implicated in the case.

**HELD:**

The investigation was conducted perfunctorily and many vital witnesses were not examined is a matter which can only be taken into consideration during the trial as the defence of the accused. The latches in investigation, if any, cannot be the ground for quashing of a criminal case. Although, it is claimed that according to the statement of many witnesses, the wife of the petitioner no. 1 committed suicide but the Court finds from the post mortem report that her death was homicidal in nature. Para-2

For Petitioners: Mr. Amitava Karmakar  
Mr. Kausik Kanti Maiti

## **THE COURT:**

1. Against the order of rejection of the petitioners' prayer for discharge and the order of framing charge under Sections 302/498A/34 of the Indian Penal Code, alternatively under Sections 304B/498A of the Indian Penal Code, the petitioners have approached this Court challenging the aforesaid orders on the following grounds;

- (a) Many vital witnesses have not been examined;
- (b) According to the 161 statement of the witnesses, this was a case of suicide.
- (c) The police has not conducted the investigation properly, and
- (d) The petitioners are absolutely innocent and have been falsely implicated in the case.

2. I have given my anxious and thoughtful consideration to the submission made on behalf of the petitioner. Perused the impugned order. The investigation was conducted perfunctorily and many vital witnesses were not examined is a matter which can only be taken into consideration during the trial as the defence of the accused. The latches in investigation, if any, cannot be the ground for quashing of a criminal case. Although, it is claimed that according to the statement of many witnesses, the wife of the petitioner no. 1 committed suicide but I find from the post mortem report that her death was homicidal in nature.

3. In view of above, in my opinion, the Learned Trial Court was fully justified in framing charge against the petitioners under Sections 302/498A/34 of the Indian Penal Code, alternatively under Sections 304B/498A of the Indian Penal Code, I do not find any wrong in the order impugned.

4. This criminal revision has no merit and, accordingly, stands dismissed.

5. Criminal Section is directed to deliver urgent Photostat certified copy of this Judgment to the parties, if applied for, as early as possible.

**( Ashim Kumar Roy, J. )**