

## **Criminal Revision**

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

*C.R.R. No. 15 of 2010*

**Judgment On: 07-04-2010.**

*Abdul Jalil Mir*

*versus*

*Nasrin Bibi & Anr.*

### **POINTS:**

TALAK, QUASHING-Petitioner claims Khola talak given by the defacto 2 complainant-Claim of defacto complainant khola talak is a forged and fabricated document-Signatures and thumb impression obtained on blank papers by petitioner on different pretexts-First Information Report lodged after nearly one year-Case Diary contains sufficient materials justifying submission of the charge-sheet against the petitioner-The petitioner, whether justified in approaching this Court for quashing of the said charge-sheet-Code of Criminal Procedure, 1973 S.482

### **FACTS:**

This is a case where khola talak was given by the defacto2 complainant herself and nearly one year thereafter the First Information Report was lodged. Suppressing the factum of khola talak the FIR was lodged and it was contented that the khola talak if taken into consideration it will be found that allegations made against the petitioner are wholly fabricated.

However, the State and the Defacto complainant vehemently opposed the prayer for quashing and disputed the factum of the khola talak. Nothing transpired from the evidentiary materials collected during investigation that any khola talak was given by the

defacto-complainant as alleged or at all. Sufficient materials have been collected by the police during investigation justifying submission of the charge-sheet. The defacto-complainant strongly disputed the factum of giving the khola talak by her. According to him during her stay at her matrimonial home the accused person, her husband has obtained her signatures and thumb impression on many blank papers on different pretext and same might have been converted to khola talak which is a forged and fabricated document.

**HELD:**

The case of the petitioner is based on disputed question of facts and the same cannot be gone into at this stage before the trial. The Case Diary contains sufficient materials justifying submission of the charge-sheet against the petitioner. This criminal revision has no merit and accordingly stands dismissed. Paras-3&4

For Petitioners: Mr. Krishnendu Bhattacharjee

Mr. Bapin Baidya

For O.P. No. 1: Mr. Srijib Chakraborty

For State: Mr. Sobhendu Sekhar Roy

**THE COURT:**

1. The petitioner, who has been charge-sheeted for offences punishable under Sections 498A/406/34 of the Indian Penal Code along with his other relations, has now approached this Court for quashing of the said charge-sheet.

2. Mr. Krishnendu Bhattacharjee, learned advocate appearing on behalf of the petitioner with Mr. Bapin Baidya urged for quashing of the charge-sheet on the grounds that this is a case where khola talak was given by the defacto2 complainant herself and nearly one year thereafter the First Information Report was lodged. It was further contended that the allegations are absolutely false and suppressing the factum of

khola talak the FIR was lodged. According to the Learned Counsel of the petitioner if the content of the khola talak is taken into consideration it will be found that allegations made against the petitioner are wholly fabricated.

On the other hand, the learned advocate appearing on behalf of the State, Mr. Sobhendu Sekhar Roy as well as Mr. Srijib Chakraborty, the learned advocate appearing on behalf of the defacto-complainant vehemently opposed the prayer for quashing and disputed the factum of the khola talak. The learned advocate of the State submitted before this Court that nothing transpired from the evidentiary materials collected during investigation that any khola talak was given by the defacto-complainant as alleged or at all. According to him sufficient materials have been collected by the police during investigation justifying submission of the charge-sheet. While the learned advocate appearing for the defacto-complainant strongly disputed the factum of giving the khola talak by her. According to him during her stay at her matrimonial home the accused person, her husband has obtained her signatures and thumb impression on many blank papers on different pretext and same might have been converted to khola talak which is a forged and fabricated document.

3. Now, having considered the rival submissions of the parties I find that the case of the petitioner is based on disputed question of facts and the same cannot be gone into at this stage before the trial.

4. I further find that the Case Diary contains sufficient materials justifying submission of the charge-sheet against the petitioner. This criminal revision has no merit and accordingly stands dismissed. Interim order, if any, stands vacated.

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. )*