

**IN THE HIGH COURT AT CALCUTTA  
CRIMINAL REVISIONAL JURISDICTION  
APPELLATE SIDE**

**PRESENT:  
THE HON'BLE JUSTICE UDAY KUMAR**

**CRR 4108 OF 2024**

**PRANABENDU BHATTACHARYYA & ANR.  
-VS-  
STATE OF WEST BENGAL & ANR.**

For the Petitioner : Mr. Subhrojyoti Bhowmick

For the State : Mr. Ramashish Mukherjee  
Mr. Neel Chakraborty

Reserved on : 12.08.2026

Pronounced on : 18.08.2026

**UDAY KUMAR, J.: –**

***I. INTRODUCTION***

1. It is an elemental tenet of our criminal jurisprudence that while the State has an uncompromising duty to bring perpetrators of crime to justice, the criminal process must never be permitted to degrade into an engine of oppression, a tool of harassment, or an instrument of vexation against individuals where the foundational materials fall miserably short of establishing a *prima facie* case. The threshold stage of considering an application for discharge under Section 239 of the Code

of Criminal Procedure, 1973 (analogous to Section 262 of the Bharatiya Nagrik Suraksha Sanhita, 2023) is a vital, statutory judicial filtering mechanism devised by the legislature to screen out groundless prosecutions, prevent the abuse of the process of any court, and shield citizens from the unmitigated agony, financial drain, and social stigma of a needless trial. Yet, courts are frequently confronted with situations where standard pre-trial filters are invoked mechanically, or conversely, where attempts are made to stifle genuine investigations prematurely by weighing evidence like an appellate court.

2. The instant criminal revisional application brings under judicial scrutiny the legality, propriety, and correctness of the order dated July 30, 2024, passed by the Learned Additional Chief Judicial Magistrate, 2nd Court, Baruipur, in G.R. Case No. 2898 of 2022 (arising out of Narendrapur Police Station F.I.R. No. 429 of 2022 corresponding to Charge-Sheet No. 930 of 2022), whereby the learned Magistrate rejected the application for discharge filed by the petitioners, who are Accused Nos. 1 and 3 respectively, and posted the matter for framing of charges.

## **II. FACTUAL MATRIX LEADING TO THE FILING OF THIS REVISIONAL APPLICATION**

3. The factual canvas emanates from a written complaint lodged on May 4, 2022, by the de facto complainant, Smt. Sonali Kar Bhattacharyya (Opposite Party No. 2), directed against her husband, Sri Rituporno Bhattacharyya @ Arjun, and members of the matrimonial home, including the present petitioners (her father-in-law, aged about 78, and

mother-in-law, aged about 76). The marriage between the complainant and Sri Rituporno Bhattacharyya was solemnized on February 26, 2017, out of their own free will, and a female child named Natasha Bhattacharyya was born from the wedlock.

4. While the complainant alleged continuous physical and mental torture subsequent to her marriage over domestic demands, the focal point of the prosecution centers around an incident on April 30, 2022, at around 03:00 hours. The complainant alleged that her husband, aided by four to five unknown persons, forcefully hauled her out of the matrimonial home, gagged her, bound her limbs, and admitted her to a psychiatric rehabilitation center named "Rista Rehab" located at Patuli, with the *mala-fide* design of branding her as a person of unsound mind and administering tranquilizing drugs. She further alleged that her minor child, valuable gold ornaments worth approximately Rs. 20 Lakhs, bank documents, and a shop containing merchandise were wrongfully confined and retained by the accused persons.
5. Upon coming to learn of this incident through reliable sources, the complainant's father intervened, rushed to the rehabilitation center, had an acrimonious altercation with the management, and compelled her discharge on May 3, 2022, in the presence of her husband. Prompted by these allegations, Narendrapur P.S. Case No. 429 dated May 4, 2022, was initiated under Sections 498A, 406, and 365 of the Indian Penal Code, and investigation was set into motion.
6. During the investigation, the Investigating Officer recorded statements under Section 161 Cr.P.C., collected medical documents, secured the

judicial statement of the complainant under Section 164 Cr.P.C., physically recovered the minor child, and retrieved *stridhan* articles which were handed over to the complainant under a *zimanama*. Ultimately, on September 27, 2022, Charge-Sheet No. 930 of 2022 was submitted under Sections 498A, 406, and 365 IPC against four individuals, including the present petitioners namely, Pranabendu Bhattacharyya (father-in-law, aged about 78 years) and Bandana Bhattacharyya (mother-in-law, aged about 76 years).

7. The procedural history reveals that the petitioners earlier approached this Court by filing C.R.R. No. 2357 of 2022 for quashing, which was disposed of with liberty to seek discharge under Section 239 Cr.P.C. upon receipt of police papers. Subsequently, upon supply of documents, they filed C.R.R. No. 1949 of 2024. A coordinate Bench disposed of C.R.R. No. 1949 of 2024 on May 13, 2024, directing the Trial Court to assess -

- i. whether the invoked sections are applicable to all accused persons, and
  - ii. whether a case has been made out for the continuation of trial on the materials collected, to be disposed of within three months.
8. Pursuant to this liberty, the petitioners filed their discharge application, which was dismissed in a summary manner by the Learned Additional Chief Judicial Magistrate on July 30, 2024, holding that sufficient materials existed to go to trial. This order has triggered the present revisional application.

### **III. SUBMISSIONS OF THE PARTIES AND PRAYERS**

#### **A. Submissions on behalf of the Petitioners**

9. Mr. Subhrojyoti Bhowmick, learned counsel appearing for the petitioners, passionately argued that the impugned order is patently illegal, perverse, passed upon an uncontroverted and mechanical reading of the charge-sheet, and in complete defiance of the coordinate Bench's binding mandate in C.R.R. No. 1949 of 2024 to record any structured assessment on the two mandatory parameters dictated thereby.
10. He forcefully contended that the petitioners are septuagenarians (aged about 78 and 76 years), suffering from acute age-related ailments, hypertension, and memory loss, and that Section 365 of the Indian Penal Code has no manner of application against grandparents who merely took protective custody of their minor grandchild, nor does Section 406 survive since the *stridhan* articles claimed by the complainant were fully recovered by the police and handed over to her under a *zimanama*.
11. He further argued that the remaining allegations under Section 498A are omnibus and vague, squarely falling within the mischief of the principles enunciated in *Neelu Chopra v. Bharti* [(2009) 10 SCC 184], *Kahkashan Kausar v. State of Bihar* [(2022) 6 SCC 599], and *Geeta Mehrotra v. State of Uttar Pradesh* [(2012) 10 SCC 741].
12. Mr. Bhowmik accordingly prayed for setting aside of the impugned order and discharging the petitioners from G.R. Case No. 2898 of 2022.

**B. Submissions on behalf of the State (Opposite Party No. 1)**

13. Conversely, Mr. Ramashish Mukherjee, learned counsel appearing for the State, supported the impugned order and relied upon the dictum of the Apex Court in *CBI v. Aryan Singh* [(2023) 18 SCC 399] to contend that a mini-trial cannot be conducted at the stage of consideration of charge, and that the case diary materials disclose grave suspicion warranting trial.
14. He contended that sufficient *prima facie* materials and grave suspicion are writ large across the case diary reflecting a shared domestic household, and that the advanced age or ailments of the petitioners do not furnish a valid ground in law for pre-trial discharge.
15. Consequently, Mr. Mukherjee prayed for the dismissal of the criminal revisional application.

**IV. DISCUSSIONS ON FACTS, PRINCIPLES OF LAW, RATIO OF CASES, SECTIONS, AND RELEVANT DOCUMENTS**

16. The precise question that arises for judicial determination in the present revision is whether the Learned Trial Court committed any patent illegality, perversity, or jurisdictional error in dismissing the petitioners' discharge application under Section 239 Cr.P.C. when the case diary and the police report under Section 173 Cr.P.C. disclose *prima facie* incriminating materials and grave suspicion connecting the accused persons to the alleged offences, and whether the propositions laid down in the cited judicial precedents apply to warrant discharge at

the threshold stage, and whether a Revisional Court can evaluate disputed questions of fact or conduct a mini-trial.

- 17.** I have perused the impugned order, the materials collected in the case diary, and the police report under Section 173 of the Code.
- 18.** The statutory architecture governing the stage of discharge in warrant cases instituted upon a police report is enshrined under Section 239 of the Code of Criminal Procedure, 1973 (now corresponding to Section 262 of the Bharatiya Nagrik Suraksha Sanhita, 2023). This provision mandates that if, upon considering the police report and the documents sent with it under Section 173 and making such examination, if any, of the accused as the Magistrate thinks necessary, and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing.
- 19.** The expression "groundless" has a well-settled connotation. It means that the materials produced before the Court do not furnish a basic foundation or legal framework for framing charges, or that even if the entire evidence collected is accepted as gospel truth, no conviction can be sustained in law.
- 20.** The parameters governing the exercise of the power of discharge of an accused under Section 239 / 227 Cr.P.C. were authoritatively delineated by the Hon'ble Supreme Court in *Union of India v. Prafulla Kumar Samal and Another* [(1979) 3 SCC 4], wherein the Apex Court formulated the following golden principles:

- 1) That the Judge while considering the question of framing the charges under Section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a *prima facie* case against the accused has been made out.
- 2) Where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing a charge and proceeding with the trial.
- 3) The test to determine a *prima facie* case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large, however, if two views are equally possible and the Judge is satisfied that the evidence produced before him gives rise to some suspicion but not grave suspicion against the accused, he will be fully justified in discharging the accused.
- 4) That in exercising his jurisdiction under Section 227 of the Code, the Judge cannot act merely as a post office or a mouthpiece of the prosecution, but has to consider the documents of the case brought on record by the police report and reach a judicial mind whether the accused deserves to be tried or not.

**21.** This principle was reiterated in *Dilawar Balu Kurane v. State of Maharashtra* [(2002) 2 SCC 135] and *Sheoraj Singh Ahlawat & Ors. v.*

*State of Uttar Pradesh & Anr.* [(2013) 11 SCC 476], emphasizing that where materials are such that even if unrebutted, they cannot make out a conviction, the charge must be construed as groundless, warranting discharge.

- 22.** However, this Court must be equally mindful of the jurisdictional limits and the caution sounded by the Supreme Court regarding mini-trials. In *CBI v. Aryan Singh (supra)*, the Apex Court emphatically held that a Revisional Court or a Trial Court, while considering discharge, cannot conduct a mini-trial or sift through evidence to evaluate disputed questions of fact at the threshold stage. The probative value of materials cannot be weighed with mathematical precision at this nascent stage; matters requiring detailed appreciation of evidence must be left to the crucible of cross-examination during trial. Thus, the delicate balance that a court must maintain is to screen out patently groundless and vexatious prosecutions while ensuring that cases disclosing *prima facie* ingredients and grave suspicion are not stifled prematurely.
- 23.** To test whether the present case falls within the category of a groundless prosecution or discloses *prima facie* incriminating materials, it is imperative to examine the judicial precedents pressed into service by the petitioners, namely *Neelu Chopra (supra)*, *Kahkashan Kausar (supra)*, and *Geeta Mehrotra (supra)*. In *Neelu Chopra*, the Supreme Court quashed criminal proceedings against aged parents because the complaint was completely devoid of specific dates, particulars, or distinct descriptions regarding the entrustment and subsequent refusal to hand over ornaments, branding it as a vague and general accusation.

Similarly, in *Kahkashan Kausar*, the Apex Court cautioned against routine, omnibus implication of extended family members in matrimonial disputes absent specific role attribution and distinct overt acts. Likewise, in *Geeta Mehrotra*, the Court set aside proceedings where the FIR failed to disclose any specific overt act or distinct criminal incident directly targeting the in-laws and relatives.

- 24.** However, when the factual matrix of the present case is meticulously contrasted with the factual settings of *Neelu Chopra*, *Kahkashan Kausar*, and *Geeta Mehrotra*, a vital and decisive divergence emerges. In those cited precedents, the allegations leveled against the family members were purely abstract, isolated, or generic post-marriage grievances completely devoid of any direct nexus to a contemporaneous criminal transaction. In sharp contrast, the instant *lis* is anchored around a specific, acute, and verifiable flashpoint on April 30, 2022, at 03:00 hours, wherein the de facto complainant was allegedly removed from the matrimonial home and admitted to a psychiatric rehabilitation facility ("Rista Rehab"), which was substantiated by contemporaneous police actions, medical documentation, judicial statements recorded under Section 164 Cr.P.C., the physical recovery of the minor child, and the seizure of *stridhan* articles. The Investigating Agency, after examining independent witnesses under Section 161 Cr.P.C. and collecting substantive materials, submitted a charge-sheet under Sections 498A, 406, and 365 IPC, pointing directly toward the joint living and domestic milieu wherein these events transpired.

- 25.** When evaluated through the lens of *Prafulla Kumar Samal* (supra) and *CBI v. Aryan Singh* (supra), the case diary and the police report under Section 173 Cr.P.C. do not present a scenario of "groundless" accusations where no conviction could ever be sustained. On the contrary, they disclose a chain of circumstances and grave suspicion connecting the household members to the occurrence. The arguments advanced on behalf of the petitioners, such as the non-applicability of Section 365 IPC due to temporary custody of the grandchild, or the return of *stridhan* under *zimanama* rendering Section 406 IPC untenable, constitute defense arguments and disputed questions of fact regarding intent and culpability. As laid down by the Supreme Court, such disputed factual aspects cannot be adjudicated or mini-tried at the threshold stage of Section 239 Cr.P.C., but must be subjected to the test of evidence during trial.
- 26.** Furthermore, it is a well-established principle of criminal jurisprudence that the mere advanced age of the petitioners, or the fact that they are septuagenarians suffering from age-related illnesses, ailments, and physical infirmities, cannot by itself serve as a valid ground in law for granting pre-trial discharge or quashing criminal proceedings when substantive *prima facie* materials and grave suspicion are clearly discernible from the case records. While human compassion based on age is a relevant consideration in sentencing or bail, it cannot override the statutory parameters of a criminal trial where the investigating agency has unearthed materials connecting household members to a live criminal episode.

**27.** Upon an anxious and meticulous appraisal of the case diary, the police report under Section 173 Cr.P.C., and the rival submissions, my legal and logical findings are summarized as follows:

**First**, the threshold requirement of Section 239 Cr.P.C. is satisfied when the materials on record disclose "grave suspicion" connecting the accused to the alleged crime. The case diary contains statements of independent witnesses under Section 161 Cr.P.C., medical papers, and judicial statements under Section 164 Cr.P.C. that *prima facie* point toward a live criminal episode on April 30, 2022, involving the domestic unit.

**Second**, the factual matrix of the present case is clearly distinguishable from the rulings in *Neelu Chopra*, *Kahkashan Kausar*, and *Geeta Mehrotra*, as the allegations here are not vague or omnibus post-marriage bickerings, but are anchored to a concrete, contemporaneous transaction involving confinement and institutionalization.

**Third**, defenses concerning the return of *stridhan* or the protective custody of the grandchild relate to probative value and factual appreciation, which cannot be made the subject matter of a mini-trial at the stage of framing charges, as rightly dictated by the Supreme Court in *CBI v. Aryan Singh*.

**Fourth**, while the advanced age of the petitioners commands human empathy, it does not constitute a statutory ground for

discharge when a *prima facie* case is made out by the investigating agency.

**Fifth**, though the Trial Court's order dated July 30, 2024, was brief, the ultimate conclusion arrived at by the learned Magistrate in refusing to discharge the petitioners is a plausible, legally sound view based on the record. There is no patent illegality, perversity, or jurisdictional error warranting interference under our revisional jurisdiction.

#### **V. CONCLUSION AND ORDER**

29. In light of the aforesaid discussions, principles of law, and factual findings, this Court is of the considered view that the petition lacks merit.
30. Accordingly, the criminal revisional application being **C.R.R. No. 4108 of 2024** stands **dismissed**.
31. The impugned order dated July 30, 2024, passed by the Learned Additional Chief Judicial Magistrate, 2nd Court, Baruipur, in G.R. Case No. 2898 of 2022, is hereby **affirmed**.
32. The Learned Trial Court is directed to proceed expeditiously with the framing of charges and the subsequent trial in accordance with law, strictly uninfluenced by any observations made herein.
33. Interim orders, if any, stand **vacated**.
34. All connected applications stand disposed of.
35. There shall be no order as to costs.

36. Case diary, if any, be returned forthwith.
37. Let a copy of this judgment along with the trial court records be transmitted to the Learned Trial Court forthwith for information and necessary compliance.
38. Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

***(Uday Kumar, J.)***