

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

The Hon'ble **JUSTICE BIBEK CHAUDHURI**

CRR 143 of 2022

Subodh Chandra Dey & Ors.

-Vs-

The State of West Bengal & Anr.

For the Petitioners: Mr. Debabrata Ray, Adv.,
 Mr. Sudip Sarkar, Adv.,
 Mr. K.P. Santra, Adv.

For the State: Mr. S.G. Mukherjee, Ld. P.P.,
 Ms. Faria Hossain, Adv.,
 Mr. Anand Keshari, Adv.

Heard on: 08 September, 2022.

Judgment on: 22 September, 2022.

BIBEK CHAUDHURI, J. : –

1. The petitioners are the parents-in-law, uncle-in-law, aunt-in-law and the husband of the defacto complainant/opposite party No.2 has filed the instant criminal revision under Section 397 read with Section 482 of the Code of Criminal Procedure praying for quashing of the criminal proceedings instituted against him on the basis of a police report/charge-sheet No.63/2021 dated 24th June, 2021 under Sections 498A/406/506/34 of the IPC and Sections 3 and 4 of the Dowry Prohibition Act arising out of a Coke Oven Police Station Case

No.107/2021 dated 12th June, 2021 corresponding to GR Case No.966 of 2021.

2. It is not in dispute that marriage of the opposite party No.2 was solemnized with the petitioner No.5 on 28th February, 2021 according to Hindu Rites and Ceremonies. The opposite party No.2 has been residing at her paternal home since 27th April, 2021. On 12th June, 2021 the opposite party No.22 lodged a written complainant with the Officer-in-Charge, Coke Oven Police Station, Durgapur stating, inter alia, that immediately after her marriage, her husband and her parents-in-law held a meeting with her on 3rd March, 2021 wherein she was informed that at the time of marriage her husband did not take any dowry from her paternal home. Therefore, she would have to bring a sum of Rs.5 lakhs from her matrimonial home for setting up of a medicine shop. The defacto complainant failed to bring such huge amount of money from her paternal home. Thereafter her father-in-law, mother-in-law and husband started to treat her with cruelty both physically and mentally. The uncle-in-law and his wife instigated other accused persons in perpetrating torture upon the defacto complainant. On 27th April, 2021 she was compelled to leave her matrimonial home to save her life. On 5th May, 2021 the father-in-law of the defacto complainant sent a letter by e-mail to the defacto complainant directing her to return her matrimonial home immediately failing which he would circulate the said letter in public in the locality. The said letter is an example of mental cruelty upon the complainant.

3. Investigation of the case was carried on by the police attached to Coke Oven Police Station and on completion of investigation police submitted charge-sheet under the penal provisions mentioned above against the petitioners.

4. It is submitted by the learned Advocate for the petitioner within two months of marriage the petitioner left her matrimonial home. On the basis of some omnibus and bold allegation the parents, uncle and aunt of the petitioner No.5 were implicated as accused persons in GR Case No.966 of 2021. The defacto complainant failed to state any incident of torture in her written complaint. A false story dated 3rd March, 2021 was manufactured to implicate the parents-in-law of the defacto complainant. It is alleged by the defacto complainant that she was physically tortured by her husband and parents-in-law at her matrimonial home. However, the defacto complainant could not produce even a single piece of medical paper to prove such allegation. The uncle and aunt of the husband of the defacto complainant were falsely implicated on the basis of an omnibus allegation that they aided and abated commission of offence of a cruelty upon the defacto complainant within the meaning of Section 498A of the IPC.

5. The case of the petitioners, on the other hand is that on 26th April, 2021 and 27th April, 2021 in the absence of any other family members in the matrimonial home, the defacto complainant shifted all her belongings including gold ornaments etc to her paternal home and left her matrimonial home permanently without any reason. The truthfulness of

the said fact can be prima facie ascertained from the case diary when the defacto complainant refused to render cooperation to the Investigation Officer for recovery of her stridhan properties from her matrimonial home. It is also submitted by the learned Advocate for the petitioner that the father-in-law of the defacto complainant wrote a letter by electronic mail to the defacto complainant asking her to return her matrimonial home. The said electronic mail cited as an evidence of mental torture allegedly perpetrated by her father-in-law upon the defacto complainant.

6. Learned Public Prosecutor has placed the case diary for consideration.

7. I have duly considered the submission made by the learned Advocate for the petitioners and the learned Public Prosecutor.

8. It is needless to say that inherent jurisdiction of this Court can only be exercised *ex debito justitiae* to prevent the abuse of the process of the court but not to stifle legitimate prosecution. Secondly, FIR/complaint may be quashed if the allegations made therein are so absurd and inherently improbable that no prudent man can ever reach a just conclusion that there is sufficient ground for proceeding against the petitioner/accused. Thirdly, when the criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused with a view to spite him due to private and personal grudge. Fourthly, even if FIR or its subsequent investigation purports to raise a suspicion of commission of a cognizable offence, it can still be quashed if the High

Court is convinced that the power of investigation has been exercised mala fide. Fifthly, where FIR/complaint, even if taken at their face value and accepted in entirety, does not disclose the commission of an offence. Bearing the above noted guideline with regard to the scope of Section 482 of the IPC let us now consider the instant case.

9. From the charge-sheet, it appears that except the defacto complainant and her mother one Sujata De and Shyamal Saha were examined by the Investigating Officer and their statement were recorded under Section 161 of the Cr.P.C. The said Sujata De is the elder sister of the defacto complainant. She resides at Mukundapur within Police Station Jadavpur. Naturally she does not have any direct knowledge about the incident as alleged by the defacto complainant. Shyamal Saha is a neighbour of the paternal home of the defacto complainant. Thus, the Investigating Officer failed to collect any evidence from the vicinity of the matrimonial home of the defacto complainant. Evidence of PW3 and PW4 is hearsay in nature. On careful perusal of the case diary I do not find any evidence in support of the allegation under Section 498A/506 of the IPC against the petitioners No.1, 2, 3 and 4. The father-in-law of the defacto complaint cannot be implicated in a criminal case only because he sent one electronic mail to the defacto complainant asking him to return her matrimonial home. Neither the hard and soft copy of the said electronic mail was seized by the Investigating Officer.

10. Thus, on careful consideration of the materials on record as well as the case diary, I do not find any prima facie case against the petitioners

No.1 to 4. Therefore, charge-sheet No.63/21 dated 24th June, 2021 under Sections 498A/406/506/34 of the IPC and Sections 3 and 4 of the Dowry Prohibition Act is liable to be quashed as against the petitioners No. 1-4.

11. The instant revision is accordingly allowed in part.

12. GR Case No.966 of 2021 arising out of Coke Oven Police Station Case No.107 of 2021 under Sections 498A/406/506/34 of the IPC and Sections 3 and 4 of the Dowry Prohibition Act be quashed as against petitioners No.1-4.

13. However, petitioner No.5 is liable to be prosecuted on the basis of the charge-sheet under Section 498A/406/506/34 of the IPC and Sections 3 and 4 of the Dowry Prohibition Act filed against him.

(Bibek Chaudhuri, J.)