

Form J(1)

**IN THE HIGH COURT AT CALCUTTA  
Criminal Revisional Jurisdiction  
Appellate Side**

**Present :  
The Hon'ble Justice Bibek Chaudhuri**

**CRR 462 of 2022**

**Sasanka Sekhar Mondal and ors.  
Vs.  
Aditi Mondal Ghosh and Anr.**

Mr. Pankaj Halder  
Mr. Razzak Hossain  
Mr. Subhrangshu Maiti  
...for the petitioners

Mr. Navanil De  
Mr. Rajeshwar Chakraborty  
Mr. Srinjan Ghosh  
Mr. Subhrajit Dey  
...for the de facto complainant

Mr. Saswata Gopal Mukherjee, Id. P.P.  
Mr. Imran Ali  
Mrs. Debjani Sahu  
...for the State

**Item No.31**

**Heard & Judgment on: 03.11.2022**

**Bibek Chaudhuri, J.**

Petitioner Nos. 1 and 3 are the husband of two sisters-in-law of the de facto complainant /opposite party No.1. Petitioner No.2 is the daughter of petitioner No.1. They were impleaded by the de facto complainant /opposite party No.1 as accused persons along with others by filing a compliant before the Officer-in-charge, Kandi Police Station. On the basis of which Kandi Police Station Case No.111 of 2020 dated 25<sup>th</sup> February, 2020 was registered. It is also pertinent to mention that after investigation police submitted charge sheet against the petitioners and other accused persons for committing offence under Sections 498A/506/34 of the Indian Penal Code. The petitioners have prayed for quashing the charge sheet as against them on the following grounds:-

- (i) The written complaint filed by the de facto complainant/opposite party No.1 is an outcome of afterthought only to harass the petitioners. The written complaint was lodged on 25<sup>th</sup> February,

2020 while the de facto complainant left her matrimonial home voluntarily sometimes in September, 2018 and her husband filed a suit for restitution of conjugal rights under Section 9 of the Hindu Marriage Act. Only after getting summons of the said suit the opposite party No.1 filed the complaint in the local police station making false and frivolous allegations against the petitioners.

- (ii) Police registered specific case against the petitioners and others without making a preliminary inquiry to ascertain the veracity of the allegation.
- (iii) No specific allegation was made against the petitioners even their names were not taken in the body of the written complaint and no overt act was attributed to them. They were made accused as per charge sheet on the basis of some general and omnibus allegations and, therefore, the case against the petitioners is liable to be quashed.
- (iv) The Investigating Officer did not take any step to ascertain the specific role of the accused persons

in allegedly committing the offence as per charge sheet.

- (v) From the written complaint itself it is found that the petitioners are residents of some distant place away from matrimonial home of the de facto complainant and there cannot be any occasion for the petitioners to treat the de facto complainant with cruelty, either physically or mentally.

Learned Advocate for the petitioners submits that the Hon'ble Apex Court in long line of precedents starting ***Preeti Gupta & Anr. -Vs.- State of Jharkhand*** reported in ***AIR (2010) 7SCC 667*** consistently held that where no specific allegation is made against the matrimonial relations who usually stay away from matrimonial home, the Court should not hesitate to quash the criminal proceeding so far as the said relations are concerned. Learned Advocate for the petitioners also relies on an unreported decision of this Court passed in CRR No. 757/2013 on 5<sup>th</sup> July, 2013 (***Mahua Das nee Mondal -Vs.- State of West Bengal & Anr.***) and submits that on similar fact situation the criminal case against the sister-in-law of the de facto complainant was quashed. He also refers to another

unreported decision of this Court passed in CRR 3863/2019 on 8<sup>th</sup> July, 2022 (***Shri Sudhir Chandra Mondal & Anr. -Vs.- The State of West Bengal & Anr.***).

The Learned Advocate for the de facto complainant/opposite party no. 1, on the other hand, submits that the suit under Section 9 of the Hindu Marriage Act filed by the husband of the de facto complainant was dismissed on contest, meaning thereby the husband of the petitioner did not want restitution of conjugal rights with the de facto complainant. This goes to suggest that a married lady was tortured and harassed by her husband.

Next he invites my attention to the written complaint. In the written complaint the de facto complainant stated that the husband, mother-in-law, sister-in-law and others used to perpetrate torture upon the de facto complainant on demand of further dowry of Rs.10,00,000/-. The de facto complainant stated the names of the petitioners in the petition of complaint. It is further submitted by the Learned Advocate for the de facto complainant that the FIR is not an encyclopaedia specific role of the petitioners in the offence can be ascertained during trial if the de facto complainant and the witnesses on behalf of the

prosecution fail to lead proper evidence against the petitioners in support of the charge. They will be entitled to an order of acquittal but at this stage charge-sheet cannot be quashed as against the petitioners.

Learned Public Prosecutor-in-Charge while supporting the submission made by the Learned Advocate for the opposite party no. 1 submits that the question as to whether the petitioners were involved in perpetrating physical and mental torture upon the de facto complainant is a question of fact which cannot be decided at this stage by this Court.

Having heard the Learned Counsels for the parties and on careful perusal of the entire materials-on-record it appears that charge-sheet under Sections 498A/506/34 of the Indian Penal Code has been filed against the petitioners as well as other accused persons. At this stage, the Court should not venture to judge the truthfulness of the allegations labeled by the complainant in the complaint and should leave the matter to be decided by the Trial Court. This general rule of criminal administration of justice got support in ***Rajib Thapar & Ors. – Vs.- Madan Lal Kapoor*** reported in ***(2013) 3 SCC 330***. At the same time, this Court should bear in mind the observation of

the Hon'ble Supreme Court in ***Kahkashan Kausar @ Sonam & Ors. -Vs.- State of Bihar & Ors.*** reported in **2022 SCC OnLine SC 162**. The following observation made by the Hon'ble Supreme Court in the aforementioned decision is quoted below:-

*"18. The above-mentioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of Section 498A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analyzing the long term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this Court by way of its judgments has warned the Courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them".*

*"19. Coming to the facts of this case, upon a perusal of the contents of the FIR dated 01.04.2019, it is revealed that*

*general allegations are levelled against the appellants. The complainant alleged that 'all accused harassed her mentally and threatened her of terminating her pregnancy'. Furthermore, no specific and distinct allegations have been made against either of the appellants herein, i.e., none of the appellants have been attributed any specific role in furtherance of the general allegations made against them. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are, therefore, general and omnibus and can at best be said to have been made out on account of small skirmishes. Insofar as husband is concerned, since he has not appealed against the order of the High Court, we have not examined the veracity of allegations made against him. However, as far as the appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution".*

It is needless to say that the revisional Court while exercising inherent jurisdiction shall be slow to quash a proceeding against an accused where charge-sheet has been

submitted but at the same time if it is found that charge-sheet has been filed against some of the accused persons only on the basis of some general omnibus statement and such statements were made only to rope in all the relatives of the matrimonial home of a married women, the Court should not allow such persons to face a futile trial for years together. In the instant case on perusal of the written complaint, it is ascertained that the allegations against the petitioners is not only vague and omnibus but also bereaved of in details. The petition of complaint states that accused nos. 1, 2 and 3 along with the others used to put pressure upon the de facto complainant for further dowry amounting to Rs.10,00,000/-. I have also perused the statement of the witnesses recorded under Section 161 of the Code of Criminal Procedure in the instant case. Since charge-sheet has been filed and the statements of the witnesses are parts of the documents under Section 173(5)(b) of the Code of Criminal Procedure I have no hesitation to divulge the contents of the same. The witnesses stated before the Investigating Officer that Arnab (the husband of the de facto complainant), her mother, sister and others used to physically assault the de facto complainant putting pressure upon her to

bring money from her paternal home. Even the witnesses did not show the amount of money which the accused persons demanded.

Admittedly, the matrimonial home of the de facto complainant is at Village – Dhohalia within Police Station – Kandi. On the contrary, the petitioner nos. 1 and 2 are residents of Berhampore and petitioner no. 3 is the resident of village- Mahurakandi within Police Station – Burwan. There is absolutely no statement made by the de facto complainant regarding the date when the petitioners came to her matrimonial home to torture her on illegal demand of dowry.

For the reasons stated above, this Court is of the view that the facts of the case is almost similar to ***Preeti Gupta*** (supra) and ***Kahkashan Kausar @ Sonam*** (supra). Therefore, relying on the ratio laid down by the Hon'ble Supreme Court in the above-mentioned decisions this Court is of the view that the petitioners were implicated in Kandi Police Station Case No. 111 dated 25.02.2020 only because they are the matrimonial relations of the de facto complainant.

The instant application is, therefore, **allowed** on contest. The FIR, charge-sheet and all subsequent proceedings as against the present petitioners are quashed.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

**(Bibek Chaudhuri, J.)**