

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.R. 558 of 2013

Ranjit Das & Ors.

-Vs-

State of West Bengal & Anr.

For the Petitioners : **Mr. Shibaji Kumar Das**
Ms. Rupsa Sreemani

For the State : **Mr. Narayan Prasad Agarwala**
Ms. Jonaki Saha

Heard on : 20.09.2022

Judgment on : 16.12.2022

Ananya Bandyopadhyay, J. :-

The instant revisional application has been filed under Section 482 read with Section 401 of the Code of Criminal Procedure, 1973 to quash the proceeding being GR case No. 1404 of 2007 (State of West Bengal –Versus- Ranjit Das and others) pending before the Court of the learned Judicial Magistrate, 1st Court, Barasat, District – North 24-Parganas arising out of Barasat Police Station Case No. 485/2007 dated 25th July, 2007 under Sections 498A/406 of the Indian Penal Code, 1860 culminating in the submission of the charge-sheet being C.S. No.442 of 2007 dated 31.08.2007.

The aforesaid G.R. Case was instituted on the basis of a complaint filed by the opposite party No.2 herein against the petitioners alleging that conforming to their demand, money, ornaments, wrist watch, cycle, cot, wooden furniture etc. were provided comprising dowry. The opposite party No.2 was married to petitioner No.1 seven years ago. Subsequently, after cohabiting as a married couple the opposite party No.2 was asked to procure a further sum of Rs.50,000/- from her parental relations to invest in stock business of the petitioner no.1. Opposite party No.2 stated her father being poverty stricken had been in debt for his daughter's marriage and was unable to provide any further sum of money. This statement infuriated the petitioners eventually subjecting the opposite party No.2 to physical and mental torture. Petitioner No.1 in inebriated state inflicted inhuman torture upon opposite party No.2 broke her bangles and wiped her vermillion. The opposite party No.2 tolerated the torture and tried to console and persuade her husband to continue with their marital life but in vain. On 10.11.2006, the petitioners beat her up mercilessly and drove her out of her matrimonial home. Thereafter, she started to reside with her husband i.e. petitioner no.1 at a separate place in a rented accommodation belonging to one Parimal Dutta.

On the evening of 25.06.2007, petitioners conspired with others and removed a cash of Rs.5,000/-, various ornaments and other commodities from a briefcase. When neighbours reached their house hearing the clamour and scream of the opposite party No.2, the petitioners fled. This incident was reported to Barasat P.S. through G.D. No. 344 dated 05.07.2007 and also to the S.P. of the district on 20.07.2007. The Opposite Party No.2 being

a poor helpless lady, a victim of conspiracy and instigation being starved and possessing minimum clothing had filed a petition under Section 156(3) of the Code of Criminal Procedure, 1973, indicting the petitioners under Sections 498A/406 of the Indian Penal Code.

The original written complaint was treated as FIR. The investigation originated and finally the charge sheet was submitted on 31.08.2007 under Sections 498A/406 of the Indian Penal Code.

The petitioners filed the instant criminal revision on 22.02.2013. This Court *vide* order dated 25.02.2013 observed as follows:-

“ In the present case, opposite party lodged F.I.R. on 25th April, 2007. To ward off the penal consequences, the petitioners filed a suit seeking a declaration that the opposite party wife is not the legally wedded wife of the petitioner No.1. It is stated that the suit was decreed ex parte. What is the effect of the ex parte shall be examined by the trial court.

There are direct allegations qua petitioner Nos. 1 and 2.

The present petition is dismissed qua the petitioner Nos. 1 and 2, husband and father-in-law respectively with liberty to them to raise all arguments before the trial court at appropriate stage. However, personal appearance of the petitioner no.2, who is stated to be the father-in-law and an old person, stands exempted subject to following conditions:

- i) Petitioner No.2 shall file an undertaking that he will be represented before the trial Court through a lawyer.*
- ii) Petitioner no.2 will cause appearance before the trial Court at the time of framing of charge, recording of statements under Section 313 of the Code of Criminal Procedure and at the time of delivery of the judgment.*
- iii) Any evidence recorded in absence of petitioner no.2 but in presence of the lawyer, shall be binding upon him.*

So far as the petitioner nos. 3 and 4 are concerned, issue notice returnable for 29th April, 2013 qua the petitioner nos. 3 and 4 who were stated to be the uncle-in-law and aunt-in-law of the de-facto complainant respectively. Further proceeding in the trial court qua them shall also remain stayed.”

The learned Advocate for the petitioner no.3 and 4 submitted the opposite party no.2/wife despite service of several notices did not appear before the Court to contest the revisional application. It was further submitted that *vide* order dated 03.04.2008, the learned Civil Judge (Junior Division), Kalyani, Nadia, the opposite party no.2 was restrained by an order of permanent injunction from claiming the plaintiff that is petitioner no.1 herein as her husband or herself as his wife and was also prevented from entering into the house of the plaintiff. It was further declared that the opposite party no.2 was not the married wife of the plaintiff, Ranjit Das in Title Suit No.140 of 2007.

The learned Advocate stressed on the fact that petitioner no.3 and 4 resided in a separate mess and there was no specific allegation against the petitioner no.3 and 4 in the complaint dated 19.06.2007 and cannot be implicated in the instant case and the proceeding against the petitioner no.3 and 4 is liable to be quashed.

The learned Advocate for the State submitted the involvement of petitioner nos. 3 and 4 would be assessed at the trial and it is premature to exculpate them and prayed for dismissal of the revisional application against the petitioner nos. 3 and 4.

The complaint dated 19.07.2007 and the statements recorded under Section 161 Cr.P.C. prevailing in the case diary did not reveal any specific act on the part of the petitioner no.3 and 4 to have actively inflicted physical and mental torture on the opposite party no.2. The landlord of the rented premises did not see petitioner nos. 3 and 4 at his house to have been a

party to the alleged theft committed on 25.06.2007. His statement recorded under Section 161 Cr.P.C. is based on hearsay. The alleged incident was brought to the notice of the local police as well as the Superintendent of Police, Nadia district at a much later date i.e. on 05.07.2007 and 20.07.2007 respectively. The delay in reporting such incident to the police remained unexplained in the complaint.

It is noticed that there is an enormous growth in proclivity and trend to implicate each and every member of in-laws' family. It is rampant to the detriment and harassment of such members. Apart from being miserably deprecated in the society in spite of being absolutely faultless and innocent, they suffer the stigma of being thrashed with criminal cases and at times, incarceration causing immense pain and mental agony which they have to withstand in silence. Presumptions, doubts and vulnerability entangle and ensnare their lives to an extent of demoralization. They lose their respect and dignity amongst other members of the family, friends and acquaintances affecting their profession, livelihood and self-existence. Their future generation too get embroiled without any cause, act or reason. The conduct of opposite party No.2 in the instant case to avoid the proceeding is quite unacceptable.

In the judgment of **Arnesh Kumar Vs. State of Bihar & Anr**¹ the Hon'ble Supreme Court observed that:

“4. There is a phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-A IPC was introduced with avowed object to combat the menace of

harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-A IPC is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. In a quite number of cases, bed-ridden grandfathers and grand-mothers of the husbands, their sisters living abroad for decades are arrested.”

In **K. Subba Rao v. The State of Telangana**² it was also observed that :

“ The Courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out.”

In **Kahkashan Kausar @ Sonak & Ors. Vs. State of Bihar & Ors.**³ it was observed that,

“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 leveled 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

¹ (2014) 8 SCC 273

² (2018) 14 SCC 452

³ 2022 Livelaw (SC) 141

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.”

In view of the aforesaid observations and also the fact that despite general and omnibus allegation against the petitioner Nos. 3 and 4 by the opposite party No.2 exclusively in absence of credible and trustworthy materials to substantiate the incrimination of petitioner Nos. 3 and 4. The proceedings against them must not be allowed to sustain. The aforesaid petitioners should not be compelled to bear the ignominy and insinuation through the process of undergoing trial on the basis of allegations and accusations which are vague and imprecise in nature unfounded and baseless causing injustice to them.

Accordingly, criminal revisional application being CRR 558 of 2013 stands allowed.

In view of the facts and circumstances of the case, proceedings pending against petitioner no 3 Ranga Lal Das and petitioner no. 4 Dipali Das the impugned GR case No. 1404 of 2007 and charge-sheet being C.S. No.442 of 2007 dated 31.08.2007 pending before the Court of the learned Judicial Magistrate, 1st Court, Barasat are hereby quashed.

Let the copy of this judgment be sent to the learned trial court as well as the police station concerned for necessary information and compliance.

All parties shall act on the server copy of this judgment duly downloaded from the official website of this court.

(Ananya Bandyopadhyay, J.)