

Form J(1)

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

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

**CRR 243 of 2022
With
CRAN 2 of 2022**

**Jyotiprakash Dhar and Ors.
Vs.
The State of West Bengal & Anr.**

Ms. Devi Priya Mitra
..for the petitioner

Item No. 2675

Heard & Judgment on: 04.05.2023

Bibek Chaudhuri, J.

The instant revision is fixed for final hearing. When the matter is taken up for hearing, none represents the opposite party No.2/ de facto complainant. I have heard the learned advocate for the petitioner.

The instant revision is filed by the petitioners praying for quashing of the charge sheet No. 170 of 2018 dated 31st October,

2018 arising out of Mayureswar P.S. FIR Case No. 125 of 2018 dated 4th July, 2018 for the offence punishable under Sections 498A/406 of the Indian Penal Code read with Sections 3 and 4 of the Dowry Prohibition Act.

The opposite party No.2 is the married wife of one Debata Charan Dhar. Their marriage was solemnized according to Hindu rites and ceremonies on 3rd June, 2013. After few days of marriage the de facto complainant left her matrimonial home with her husband and started living in Haryana where her husband used to work as a teacher in Swami Vidya Devi Zindal School (Girls). While staying at Haryana the de facto complainant gave birth a male child. After about one year both of them returned to Mayureswar. It is alleged that after they returned to Mayureswar, the accused persons including her husband started to torture upon her to meet their illegal demand of dowry of rupees five lakhs. When she expressed her inability to bring such huge amount of money from her paternal home, she was subjected to physical and mental torture by all the accuse persons. The petitioners before this Court are the elder brother-in-law, his wife, another brother-in-law and sisters-in-law. It is submitted on behalf of the petitioner that none of the petitioners resides at Mayureswar. The petitioner Nos. 1 and 2 have been residing at Rajpur Sonarpur, P.S. Garia. The petitioner No.3 has been residing at

Burdwan and the petitioner No.5 is residing at village Amdahara within P.S. Santiniketan. The petitioner No.4 has been residing at Mayureswar. It is submitted by the learned advocate for the petitioners that the petitioner No.4 is a physically challenged lady and she is dependent on wheel chair. It is not possible for her to inflict any torture upon the opposite party No.2. The petitioners were falsely inflicted in her written complaint by the opposite party No.2. police also submitted charge sheet in a perfunctory manner without proper investigation.

Be that as it may, when charge sheet has been filed, it is needless to say that prima facie case against the accused persons/petitioners has been established. Therefore, at this stage, I am not in a position to quash the impugned proceeding against the petitioners.

However, the petitioners are given liberty to agitate the issue at the time of consideration of charge and if such issue is raised, the learned Magistrate shall consider as to whether it was at all possible for the petitioners to commit any offence under Sections 498A/406 of the Indian Penal Code. If on available perusal of materials on record and the case diary as well as the specific case of the petitioner as mentioned in the instant revision it is found by the learned Magistrate

that no case is made out against them, the petitioners will be discharged from the case.

With the above observation, the instant revision is disposed of.

All pending applications are also treated to be disposed of.

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

(Bibek Chaudhuri, J.)