

IN THE HIGH COURT AT CALCUTTA

(Criminal Revisional Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 426 of 2019

Abhijit Palit & Ors.

Vs

The State of West Bengal & Anr.

For the Petitioners

: Mr. Kallol Mondal,
Mr. Krishan Ray,
Mr. Souvik Das,
Mr. Shamsheer Ansari,
Mr. Ayan Mondal.

For the State

: Mr. S.G. Mukherjee, Ld. PP,
Mrs. Faria Hossain,
Mr. Anand Keshari,
Mr. Md. Kutubuddin.

For the Opposite Party No. 2

: Mr. Sayan Kanjilal.

Heard on

: 16.03.2023

Judgment on

: 27.04.2023

Shampa Dutt (Paul), J.:

1. The present revisions has been preferred praying for quashing of the proceedings being ACGR No. 5166 of 2016 arising out of Thakurpukur Police Station Case No. 319 of 2016 dated 01.09.2016 registered for investigation into offences punishable under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act, now pending before the Court of Learned Additional Chief Judicial Magistrate Alipore, South 24 Parganas.
2. The petitioners case is that the petitioner No. 1 is the **ex-husband** of the Opposite Party No. 2. The Petitioner No. 2 is the ex-father in law, petitioner No. 3 is the ex-mother in law, of the Opposite Party No. 2. The petitioner No. 2 is a retired Sub Inspector of Central Industrial Security Force and is a disciplined member of Para-Military force and he has also been conferred with the President Police Medal for Meritorious Service to the Nation along with two other Medals from Government of India.
3. The petitioner No.1 and the opposite party no. 2/ex-wife got married on 27.02.2015 at Kanpur at the paternal house of the bride as per Hindu rites and customs. The marriage was an arranged marriage. Subsequently the marriage was registered on 13.03.2015. The opposite party no. 2 has never been desirous to live her conjugal life and always used to magnify trifle issues. Since after the marriage the petitioners have been subjected to both physical and mental torture and cruelty by

the Opposite Party No. 2 by way of adopting different methods including the demand that the petitioner no. 1 has to separate his mess from his parents being petitioner nos. 2 and 3. While the Opposite party no. 2 was pregnant, she went to her parent's house and on 20.10.2015 on the day of 'Saptami' (Durga Puja), the Opposite Party along with her brother in law, Angshuman Roy and sister Nandita Roy visited the house of the petitioners and wanted Rs. 1,00,000/- to be deposited in her bank account. Since the petitioners were unable to meet such demand, they were abused in filthy language followed by threats that in the event they dare to inform any authorities then she will abort the child. However with the expectation of future happiness no complaints were lodged concerning the said unruly and untenable behavior of the Opposite party No. 2. On the contrary she had been provided with every sort of support and care.

4. On 25.01.2016 a male child has born from the said wedlock. After the marriage the petitioner no.1 had been posted in Hyderabad for job purpose. The Opposite Party No. 2 had refused to accompany him and stayed in her parental home at Kanpur. In fact when she was requested by the petitioner no. 1 to stay at the matrimonial house at Birati, she became furious and started hurling abusive language against the petitioners. The mother, sister and brother in law (Jamai Babu) of the Opposite Party No. 2 namely Angshuman Roy have always interfered in the matrimonial life of the petitioner no. 1 and the Opposite Party No. 2.

The mother of the opposite party No. 2 had also created scene at the Zenith Hospital by preventing the petitioner No. 1 to see his own son. In the absence of the Petitioner No. 1, the relatives of the Opposite Party No. 2 including her mother arrived at her matrimonial house on 21.02.2016 without informing the petitioners and took her away along with her baby and all the gold ornaments and other valuables of the house of the petitioners.

5. On 09.05.2016 at about 14.48 hrs the petitioners had been threatened and they were told by the Opposite Party No. 2 that they will not be allowed to meet their grandson. The petitioner No. 2 had diarised the incident with Nimta Police Station vide GD entry No. 700 dated 14.05.2016.
6. Since the Opposite Party No. 2 was not responding to the calls of the Petitioner No. 1, he had called the maternal uncle of the Opposite Party No. 2 namely P.K. Barman on 24.05.2016 and learnt that the Opposite Party No. 2 is residing at the quarter of her brother in law namely Angshuman Roy at Balasore.
7. On 25.05.2016 the Petitioner No. 2 had sent email to Angshuman Roy requesting him to tell him the exact location of stay of the Opposite Party No. 2 and her son so that he could visit and see them and he also requested him to send them back to Kolkata but they refused.
8. Thereafter the petitioner No. 1 tried to contact the Opposite Party No. 2 on several occasions but in vain. Ultimately after being informed that she

is residing at the house of her brother in law in Balasore, the petitioner nos. 1 and 2 went there on 11.06.2016 but they were brutally assaulted. Subsequently they had been rescued by the Balasore police at the behest of the Superintendent of Police at Balasore.

9. The petitioners state that being unable to bear the cruelty any further the Petitioner No. 1 filed a proceeding inter alia praying **for divorce** from the Opposite Party No. 2 **in the month of June 2016**, on the ground of cruelty and desertion and the same had been registered as MAT Suit No. 248 of 2016. Despite Service of notice upon the Opposite Party No. 2, she chose not to appear and contest and accordingly the Petitioner No. 1 has been granted a decree of divorce vide order dated 24.04.2017 in terms of Section 13(1)(ia)(ib) of the Hindu Marriage Act, 1955 in connection with the mentioned matrimonial suit passed by the Learned Additional District Judge, Fast Track, 1st Court, Barrackpore, North 24 Parganas.
10. That although the Opposite Party No. 2 had chosen to remain unrepresented in the matrimonial suit for dissolution of marriage but after service of notice regarding the initiation of the matrimonial proceeding, she chose to initiate a false criminal proceeding against the petitioners **under Section 498A/406/34 of the Indian Penal Code** read with Section 4 of the Dowry Prohibition Act vide Thakurpukur Police Station Case No. 319 of 2016 dated **01.09.2016**.
11. The allegations brought by way of the First Information Report inter alia is to the effect, that the marriage between the petitioner No. 1 and

Opposite Party No. 2 was solemnized on 27th February 2015 as per Hindu Rites and Customs (through matrimonial site) at IIT Kanpur Community Centre, Uttar Pradesh.

12. It is further alleged that the Opposite Party No. 2 noticed that the behavior of her husband was strange towards her. Her husband showed his dissatisfaction towards the quality and standard of the goods and articles presented by the parents of Opposite Party No. 2 at the time of marriage. The petitioners used to tell her not to keep relation with her mother and unmarried sister and they abused her family members in filthy language. On 8th March 2015 she went to Puri with Petitioner No. 1 for honeymoon. However she noticed that during the entire tour her husband remained busy chatting on social media and **communicated with his parents for which she felt annoyed**. On 15th March 2015 she went to Hyderabad with her husband with a hope that he will change. However she was subjected to both physical and mental torture by him. Subsequently she became pregnant. During her pregnancy she did not get required attention from her husband resulting which she became ill and traumatized. She called the petitioners No. 2 and 3 over telephone and informed them about the behavior of her husband. The petitioner No., 2 and 3 immediately went there, but the Opposite Party No. 2 noticed that her father in law tried to get intimate with her with malafide intention. She informed her husband as well as her mother in law but they did not pay any heed and the torture got escalated. Lastly on 18th

October 2015 when her husband came to Kolkata on the eve of Durga Puja, her mother and sister came to meet him but they were humiliated and abused by him. On 25th January 2016 she gave birth to a child but her husband did not bear the hospital expenses. After birth of the child her father in law again started to get intimate with her in various ways. When she informed her husband, Petitioner No. 1 threatened her with dire consequences. Finding no other alternative she diarized the matter with the local police station vide GDE no. 662 of 2016 dated 08.05.2016. On 26th May 2016 she went to Balasore Orissa to her sister's house. On 11.06.2016 suddenly her husband came there and assaulted her with kicks and blows. She diarized the incident vide GDE no. 267 dated 11.06.2016. On 10th July, 2016, the Petitioner No.1 threatened her maternal uncle over phone. On 03.08.2016 at 7.13 am she received two unknown threat calls whereby it had been expressed that the Petitioner No. 1 wants the custody of his child. Subsequently this complaint was lodged.

13. After conclusion of investigation police submitted Charge Sheet vide Charge Sheet No. 320 of 2016 dated 17.12.2016 under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act against the petitioners.
14. The petitioners had preferred an application in the Learned Trial Court praying for discharge from the instant case under Section 239 of the Code of Criminal Procedure.

15. The said application for discharge had been taken up for hearing by the Learned Judicial Magistrate, 2nd Court, Alipore on 19.09.2018 and after hearing the matter the Learned Magistrate was pleased to reject the prayer for discharge in respect of the petitioners.
16. It is submitted that the Learned Magistrate has failed to consider while refusing the prayer for discharge in respect of the petitioners that from the documents which were supplied to the petitioners in compliance of Section 207 Cr.P.C. does not disclose any iota of evidence which can justify the prosecution of the petitioners for the offences punishable under Sections 498A/406/34 of the Indian Penal Code, 1860 read with Section 4 of the Dowry Prohibition Act.
17. That the continuance of the proceeding will be an abuse of the process of law as the FIR as well as the materials collected in course of the purported investigation does not disclose and/or contain any ingredients of the offences alleged which could justify the continuance of the proceeding.
18. That despite communication of the passing of decree of dissolution of marriage passed in connection with MAT Suit No. 248 of 2016, the Opposite Party No. 2 has not preferred any appeal against the decree of dissolution of marriage till date, which affirms the contention of the Petitioner No. 1 ventilated in the matrimonial suit being inter alia desertion and cruelty.

19. **Mr. Kallol Mondal, learned counsel for the petitioners** has submitted that the entire proceeding is an abuse of process of law and is thus liable to be quashed.
20. In the prevalent facts and circumstances of the present case, it is expedient in the interest of justice, to uphold the dignity of law that the impugned proceeding is quashed.
21. **Mr. Sayan Kanjilal, learned counsel for the Opposite Party No. 2** has submitted that there is prima facie case against the petitioners to proceed towards trial and as such the revision is liable to be dismissed.
22. **Mr. S. G. Mukherjee, learned public prosecutor** has placed the case diary and submitted that there is sufficient materials in the case diary against the petitioners and they should face trial in this case.
23. Heard the learned counsels for all the parties including the State. Perused the materials on record. Considered.
24. The parties in this case (petitioner no. 1 and Opposite Party No. 2) were married on 27.02.2015. A child was born on 25.01.2016.
25. Due to problems as alleged by both the parties, the Opposite Party No. 2 left her matrimonial home on 21.02.2016.
26. The petitioner/husband got an ex parte divorce decree on 24.04.2017. The matrimonial suit had been filed in June, 2016 on the ground of cruelty and desertion.
27. The present case was started on 01.09.2016 on the basis of a complaint dated 28.08.2019.

28. The allegation in the complaint includes that her husband visited her in her sister's house at Balasore on 11.06.2016 and assaulted her.
29. She has also alleged that around the time she filed the complaint she was getting (ghost) calls, pressurizing her to give consent for divorce etc.
30. **This shows that the complainant was aware about the divorce proceedings.**
31. **The complaint in the present case was filed thereafter.**
32. The petitioner's case is that they tried their best to bring the Opposite Party No. 2 and the child back, but failed.
33. **Section 498A of the Indian Penal Code, lays down:-**

“498A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.—For the purposes of this section, “cruelty” means—

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet demand.

Ingredients of offence. — The essential ingredients of the offence under Sec. 498A are as follows:-

(1) A woman was married;

(2) She was subjected to cruelty;

(3) Such cruelty consisted in—

(i) any wilful conduct as was likely to drive such woman to commit suicide or to cause grave injury or danger to her life, limb or health whether mental or physical;

(ii) harm to such woman with a view to coercing her to meet unlawful demand for property or valuable security or on account of failure of such woman or any of her relations to meet the lawful demand;
 (iii) the woman was subjected to such cruelty by her husband or any relation of her husband.”

34. In **Kahkashan Kausar @ Sonam & Ors. vs. State of Bihar & Ors.**, **2022 LiveLaw (SC) 141, on 08th February, 2022**, the Supreme Court held as follows:-

“Issue Involved

11. Having perused the relevant facts and contentions made by the Appellants and Respondents, in our considered opinion, the foremost issue which requires determination in the instant case is whether allegations made against the in-laws Appellants are in the nature of general omnibus allegations and therefore liable to be quashed ?

12. Before we delve into greater detail on the nature and content of allegations made, it becomes pertinent to mention that incorporation of section 498A of IPC was aimed at preventing cruelty committed upon a woman by her husband and her in-laws, by facilitating rapid state intervention. However, it is equally true, that in recent times, matrimonial litigation in the country has also increased significantly and there is a greater disaffection and friction surrounding the institution of marriage, now, more than ever. This has resulted in an increased tendency to employ provisions such as 498A IPC as instruments to settle personal scores against the husband and his relatives.

13. This Court in its judgment in **Rajesh Sharma and Ors. Vs. State of U.P. & Anr;** (2018) 10 SCC 472, has observed:-

“14. Section 498-A was inserted in the statute with the laudable object of punishing cruelty at the hands of husband or his relatives against a wife particularly when such cruelty had potential to result in suicide or

murder of a woman as mentioned in the statement of Objects and Reasons of the Act 46 of 1983. The expression 'cruelty' in Section 498A covers conduct which may drive the woman to commit suicide or cause grave injury (mental or physical) or danger to life or harassment with a view to coerce her to meet unlawful demand. It is a matter of serious concern that large number of cases continue to be filed under already referred to some of the statistics from the Crime Records Bureau. This Court had earlier noticed the fact that most of such complaints are filed in the heat of the moment over trivial issues. Many of such complaints are not bona fide. At the time of filing of the complaint, implications and consequences are not visualized. At times such complaints lead to uncalled for harassment not only to the accused but also to the complainant. Uncalled for arrest may ruin the chances of settlement."

14. Previously, in the landmark judgment of this court in **Arnesh Kumar Vs. State of Bihar and Anr;** (2014) 8 SCC 273, it was also observed:-

"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."

15. Further in **Preeti Gupta & Anr. Vs. State of Jharkhand & Anr;** (2010) 7 SCC 667, it has also been observed:-

"32. It is a matter of common experience that most of these complaints under section 498A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and

are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.

33. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fiber of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under section 498A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fiber, peace and tranquility of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection.

36. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of amicable settlement altogether. The process of suffering is extremely long and painful."

16. In Geeta Mehrotra & Anr. Vs. State of UP & Anr; (2012) 10 SCC 741, it was observed:-

"21. It would be relevant at this stage to take note of an apt observation of this Court recorded in the matter of **G.V. Rao vs. L.H.V. Prasad & Ors. reported in (2000) 3 SCC 693** wherein also in a matrimonial dispute, this Court had held that the High Court should have quashed the complaint arising out of a matrimonial dispute wherein all family members had been roped into the matrimonial litigation which was quashed and set aside. Their Lordships observed therein with which we entirely agree that:

"there has been an outburst of matrimonial dispute in recent times. Marriage is a sacred ceremony, main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate the disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their cases in different courts." The view taken by the judges in this matter was that the courts would not encourage such disputes."

17. Recently, in **K. Subba Rao v. The State of Telangana**, (2018) 14 SCC 452 it was also observed that:-

“6. 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.”

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 analysing 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.”

And finally the Court held:-

“22. Therefore, upon consideration of the relevant circumstances and in the absence of any specific role attributed to the accused appellants, it would be unjust if the Appellants are forced to go through the tribulations of a trial, i.e., general and omnibus allegations cannot manifest in a situation where the relatives of the complainant’s husband are forced to undergo trial. It has been highlighted by this court in varied instances, that a criminal trial leading to an eventual acquittal also inflicts severe scars upon the accused, and such an exercise must therefore be discouraged.”

35. In **Ramesh Chandra Gupta vs. State of Uttar Pradesh and Ors., 2022**

LiveLaw (SC) 993, Criminal Appeal No(s)....of 2022 (Arising out of SLP

(Crl.) No(s). 39 of 2022), the Supreme Court held:-

*“15. This Court has an occasion to consider the ambit and scope of the power of the High Court under Section 482 CrPC for quashing of criminal proceedings in **Vineet Kumar and Others vs. State of Uttar Pradesh and Another, (2017) 13 SCC 369** decided on 31st March, 2017. It may be useful to refer to paras 22, 23 and 41 of the above judgment where the following was stated:*

“22. Before we enter into the facts of the present case it is necessary to consider the ambit and scope of jurisdiction under Section 482 CrPC vested in the High Court. Section 482 CrPC saves the inherent power of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any court or otherwise to secure the ends of justice.

*23. This Court time and again has examined the scope of jurisdiction of the High Court under Section 482 CrPC and laid down several principles which govern the exercise of jurisdiction of the High Court under Section 482 CrPC. A three-Judge Bench of this Court in *State of Karnataka v. L. Muniswamy* (1977) 2 SCC 699 held that the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. In para 7 of the judgment, the following has been stated :*

‘7. ... In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a court

proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice. The ends of justice are higher than the ends of mere law though justice has got to be administered according to laws made by the legislature. The compelling necessity for making these observations is that without a proper realisation of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice, between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction.'

41. Inherent power given to the High Court under Section 482 CrPC is with the purpose and object of advancement of justice. In case solemn process of Court is sought to be abused by a person with some oblique motive, the Court has to thwart the attempt at the very threshold. The Court cannot permit a prosecution to go on if the case falls in one of the categories as illustratively enumerated by this Court in *State of Haryana v. Bhajan Lal* 1992 Supp (1) SCC 335. Judicial process is a solemn proceeding which cannot be allowed to be converted into an instrument of operation or harassment. When there are materials to indicate that a criminal proceeding is manifestly attended with mala fides and proceeding is maliciously instituted with an ulterior motive, the High Court will not hesitate in exercise of its jurisdiction under Section 482 CrPC to quash the proceeding under Category 7 as enumerated in *State of Haryana v. Bhajan Lal* 1992 Supp (1) SCC 335 which is to the following effect :

'102. (7) Where a criminal proceeding is manifestly attended with mala fides and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.'

Above Category 7 is clearly attracted in the facts of the present case. Although, the High Court has noted the judgment of *State of Haryana v. Bhajan Lal* 1992 Supp (1) SCC 335 but did not advert to the relevant facts of the present case, materials on which final report was submitted by the IO. We, thus, are fully satisfied that the present is a fit case where the High Court ought to have exercised its jurisdiction under Section 482 CrPC and quashed the criminal proceedings.”

16. The exposition of law on the subject relating to the exercise of the extra-ordinary power under Article 226 of the Constitution or the inherent power under Section 482 CrPC are well settled and to the possible extent, this Court has defined sufficiently channelized guidelines, to give an exhaustive list of myriad kinds of cases wherein such power should be exercised. This Court has held in para 102 in ***State of Haryana and Others v. Bhajan Lal and Others, 1992 Supp. (1) 335*** as under:

“**102.** In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not *prima facie* constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a 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 and with a view to spite him due to private and personal grudge.”

17. *The principles culled out by this Court have consistently been followed in the recent judgment of this*

*Court in **Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra and Others, 2021 SCC Online SC 315.***

36. The 'cruelty' alleged in this case is not as per the ingredients as required to constitute an offence under Section 498A IPC. The ingredients required to constitute an offence under Section 406 IPC is also absent. It is seen from the materials in the case diary and the charge sheet that there is no prima facie case made out of cognizable offences as alleged against the accuseds/petitioners and there is no materials for proceeding against the accuseds/petitioners towards trial and this is a fit case where the inherent power of the court should be exercised.
37. The Charge Sheet and the evidence placed in support thereof, form the base to take or refuse to take cognizance by the competent court.
38. In the Present case there is no substance in the allegations and no material exists to prima facie make out the complicity of the petitioners in a cognizable offence, as alleged, and as such the proceedings in this case should be quashed.
39. **CRR 426 of 2019 is allowed.**
40. The proceedings being ACGR No. 5166 of 2016 arising out of Thakurpukur Police Station Case No. 319 of 2016 dated 01.09.2016 registered for investigation into offences punishable under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act, pending before the Learned Additional Chief Judicial Magistrate Alipore, South 24 Parganas is hereby quashed.

41. There will be no order as to costs.
42. All connected Applications stand disposed of.
43. Interim order if any stands vacated.
44. Copy of this judgment be sent to the learned Trial Court forthwith for necessary compliance.
45. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)