

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

**Present:**

**The Hon'ble Justice Ananya Bandyopadhyay.**

**CRR 1806 of 2013  
With  
CRAN 17 of 2022**

**Bijay Kumar Santoria & Ors.  
Vs.  
The State of West Bengal & Anr.**

For the petitioners : Ms. Minal Palana  
Mr. Aasish Choudhury  
Ms. Puja Tripathi

For the State : Mr. S. G. Mukherjee, Ld. P.P.  
Mr. Imran Ali  
Ms. Debjani Sahu

Heard on : 19.12.2022

Judgement on : 23.02.2023

**ANANYA BANDYOPADHYAY, J.:**

1. The instant revisional application under Section 482 of the Criminal Procedure Code has been filed to quash the proceedings being G.R. Case No. 298 of 2012 arising out of Jorebunglow P.S. Case No. 87 of 2012 dated 14.12.2012 under

Sections 498A/323/406/506 of the Indian Penal Code and Sections 3/ 4 of the Dowry Prohibition Act pending before the Court of the learned Chief Judicial Magistrate, Darjeeling.

2. Supplementary Affidavit dated 17<sup>th</sup> March, 2020 filed by the petitioners treated as part of the original revisional application being CRR 1806 of 2013 inter alia stated that *“the petitioner Nos. 2, 3 and 4 of the instant revisional application had been implicated in another case being G.R. No. 882/2012 arising out of Asansol (S) P.S. Case No. 135/2012 dated 01.05.2012 under Sections 498A/323/34 of the Indian Penal Code, 1860, pending before the Court of the Learned Judicial Magistrate, 3<sup>rd</sup> Court, Asansol, on the basis of a complaint filed by the opposite party No.2 of the instant revisional application and that the petitioner Nos. 2, 3 and 4 of the instant revisional application were found not guilty of the offence under Sections 498A/323/34 of the Indian Penal Code, 1860 and accordingly, were acquitted from the said offences vide judgment and order dated 12.07.2019 passed by the Court of the Learned Judicial Magistrate, 3<sup>rd</sup> Court, Asansol in G. R. No. 882/2012.”*

3. Further it appeared that *“the petitioner No.1 herein had filed an application under Section 13 of the Hindu Marriage Act, 1954 against the Opposite Party No. 2 herein praying for dissolution of*

*their marriage by a decree of divorce against the opposite party No.2 herein on the ground of desertion and cruelty in Matrimonial Suit being No. 45/2017. That, the said Matrimonial suit was decreed ex parte against the opposite party No. 2 herein and the petitioner No.1 had been granted a decree of divorce against his wife Sunita Santoria (Agarwal) dissolving their marriage solemnized on 18.04.2012 under the provision of Hindu Marriage Act, 1954 vide Order No. 24 dated 17.01.2020 passed by the Court of Additional District Judge, 2<sup>nd</sup> Court, Asansol in Mat Suit No. 45/2017 ( 122/2017)”.*

4. Perused the judgment dated 12<sup>th</sup> of July, 2019 passed by the 3<sup>rd</sup> Court of Judicial Magistrate, Asansol in G.R. Case No. 882/2012 arising out of T.R. No. 15/2013 whereby the petitioner Nos. 2, 3 and 4 had been acquitted. Ex parte decree of divorce obtained by petitioner No.1 dissolving the marriage with the de-facto complainant on 18.04.2012 vide order No. 24 dated 17.01.2020 passed by the 2<sup>nd</sup> Court Additional District Judge, Asansol in Mat Suit No. 45/2017 (122/2017) appeared to have been occasioned during the pendency of the proceedings being G.R. Case No. 298 of 2012 arising out of Jorebunglow police station case No. 87 of 2012 dated 14.12.2012 under Section 498A/313/406/506 of the Indian

Penal Code, 1860 read with Sections 3 /4 of the Dowry Prohibition Act, 1961 pending before the court of the learned Judicial Magistrate, Darjeeling which was later on committed to the court of learned Sessions Judge, Darjeeling. Cognizance was taken vide order dated 04.08.2015. Subsequently, charges were framed. It appeared, there was FIR No. 87/2012 dated 14.12.2012 wherein charge sheet No. 15/2013 dated 22.03.2013 was submitted against the accused named therein i.e. the present petitioners Nos. 1 to 4. The de-facto complainant had earlier initiated police station case No. 135/2012 dated 01.05.2012 under Section 498A/323/34 of the Indian Penal Code which ended in acquittal. The accused persons named therein were Kaluram Santaria, Sharad Kumar Santoria, Rajesh Santoria, Ashim Khaitan. It was further observed from the judgment that the de-facto complainant despite being summoned several times failed to appear before the Court. The absence of the de-facto complainant resulted in the ex parte decree of divorce granted in favour of the petitioner No.1.

- 5.** The conduct of the de-facto complainant infers to harass the petitioners to their predicament intending to abuse the process

of law which cannot be permitted and accordingly the instant revisional application is allowed.

6. Proceedings being G.R. Case No. 298 of 2012 arising out of Jorebunglow P.S. Case No. 87 of 2012 dated 14.12.2012 under Sections 498A/323/406/506 of the Indian Penal Code and Sections 3/ 4 of the Dowry Prohibition Act pending before the Court of the learned Chief Judicial Magistrate, Darjeeling is accordingly quashed.
7. Connected application i.e. CRAN 17/2022 is also disposed of accordingly.
8. Case diary be returned to the learned advocate for the State.
9. There is no order as to cost.
10. 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.
11. All parties shall act on the server copy of this judgment duly downloaded from the official website of this court.

**(ANANYA BANDYOPADHYAY, J.)**