

Form J(1)

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

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

**C.R.R. 4330 of 2022**

***Lalan Ojha & Ors.  
Vs.  
The State of West Bengal & Anr.***

**For the petitioner : Mr. Moyukh Mukherjee, Adv.  
Mr. Abhishek Dutt, Adv.  
Mr. Abhijit Singh, Adv.  
Mr. Aishwarya Bazaz, Adv.  
Ms. Rupa Singh, Adv.**

**Heard on : 03.01.2023**

**Judgment On : 03.01.2023.**

**Bibek Chaudhuri, J.**

The petitioners are father-in-law, mother-in-law, brother-in-law and married daughter-in-law of the opposite party No.2. On the basis of a written complaint police registered Kolkata Leather Complex Police Station Case No.39/22 under Sections 498A/406/34 of the Indian Penal Code against the petitioners. The petitioners have approached this Court for quashing of the charge-sheet filed against them on the ground of vagueness of allegation.

It is submitted by the learned Advocate for the petitioners that prior to marriage of the opposite party No.2 with one Jitendra Ojha,

since deceased, son of the petitioner Nos.1 and 2, they were lived in a live-in-relationship. Even they opened joint account in their names. They used to reside in a separate place from the paternal house of the deceased husband of the opposite party No.2. Subsequently there was marriage between the opposite party No.2 and the said Jitendra Ojha. After marriage the husband of the opposite party No.2 died of cirrhosis of liver. During his lifetime the petitioners made all expenditure with regard to his medical treatment. Further, after six months of his death, the opposite party filed a vague allegation, stating, *inter alia*, that the accused persons/petitioners treated her with mental cruelty during the lifetime of her husband. Subsequent to his death, they did not allow her to stay at her matrimonial home. They also did not accept her girl child as their grand-daughter.

It is submitted by the learned Advocate for the petitioners relying on Paragraphs 17 and 18 of the decision by the Hon'ble Supreme Court in *Kahkashan Kausar @ Sonam & Ors. Vs. State of Bihar & Ors.* reported in (2022) 6 SCC 599 that when the written complaint contained absolutely vague and uncalled for allegation against the matrimonial relations of the de-facto complainant, the complaint needs to be quashed. Paragraphs 17 and 18 of the above report is quoted below :-

*"17. The abovementioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of Section 498-A 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.*

*18. Coming to the facts of this case, upon a perusal of the contents of the FIR dated 1-4-2019, 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."*

Having heard the learned Advocate for the petitioners and on careful perusal of the entire materials on record, at the outset I would like to record that in *Kahkashan Kausar (supra)*, the accused persons approached the Hon'ble Supreme Court to quash an FIR. However, in the instant case the veracity of the FIR was tested with the touchstone of investigation by the police officer and finally charge-sheet has been submitted against the petitioners.

It is not unheard that a lady who lost her husband is not treated well in her matrimonial home if she is not allowed to stay at her matrimonial home with her matrimonial relations after the death of her husband, prima facie this amounts to cruelty.

In view of the above discussion, I do not find any merit in the instant revision and accordingly, the revisional application is summarily dismissed.

**(Bibek Chaudhuri, J.)**

**Mithun De/  
A.R. (Ct).  
SI No.30.  
D/L.**