

Form J(1)

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

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

**CRR 4536 of 2022**

**Sumit Roy  
Vs.  
The State of West Bengal & Anr.**

Mr. D. K. Adhikari  
Mr. D. Bhattacharya  
Mr. D. Adhikari  
..for the petitioner.

**Item No.21**

**Heard & Judgment on: 19.04.2023**

**Bibek Chaudhuri, J.**

The petitioner is the husband of the opposite party No.2. The petitioner has filed the instant revision praying for quashing of all proceedings in connection with G.R. Case No. 663 of 2019 arising out of Bhadreswar P.S. Case No. 190 of 2019 under Sections 498A/406 of the Indian Penal Code.

It is submitted by the learned advocate for the petitioner that in the written complaint submitted to the Officer-in-charge Bhadreswar P.S. the de facto complainant /opposite party stated that her marriage was registered with the opposite party on 20<sup>th</sup> November, 2015 under the Special Marriage Act. Thereafter a social function was observed according to the Hindu rituals both at her paternal and matrimonial home.

The learned advocate for the petitioner next draws my attention to an application under Section 12 of Protection of Women from Domestic Violence Act wherein the petitioner has stated that after her registration of marriage on 20<sup>th</sup> November, 2015 between the petitioner and the opposite party a social marriage was solemnized on 27<sup>th</sup> November, 2015 at Chandannagore. Subsequently, another function was performed on 29<sup>th</sup> November, 2015. On 17<sup>th</sup> February, 2016 the complainant went to her matrimonial home. According to the learned advocate for the petitioner there is gross discrepancy in respect of the date of marriage of the opposite party with the petitioner. The petitioner also filed a suit for declaration that the marriage between the petitioner and the opposite party is a nullity on the ground that at the time of marriage the opposite party had a subsisting marriage and the said marriage was not dissolved by a decree of divorce. I have closely perused the petition of complaint as

well as the application filed under Section 12 of the Protection of Women from Domestic Violence Act. In both the written complaint as well as the application the date of initial marriage under Special Marriage Act by way of registration is correctly stated as on 20<sup>th</sup> November, 2015. Apart from the above mentioned allegation the learned advocate for the petitioner has not made any other submission. Whether the marriage was solemnized or not is a factual issue. Whether the petitioner was subjected to physical or mental cruelty is also a factual issue which would be decided on the basis of evidence adduced by the parties. Mere wrong description of solemnization of marriage and performance of certain social programmes does not make an application under Sections 498A/406 of the Indian Penal Code unentertainable and not maintainable.

Therefore, I do not find any merit in the instant revision.

Accordingly, the instant revision is dismissed.

**(Bibek Chaudhuri, J.)**