

IN THE HIGH COURT AT CALCUTTA

(Criminal Revisional Jurisdiction)

Appellate Side

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 1339 of 2020

Riju Ray & Ors.

Vs.

The State of West Bengal & Anr.

For the petitioners : Mr. Jayanta Narayan Chatterjee,
Ms. Moumita Pandit,
Ms. Nandini Chatterjee,
Mr. Supreem Naskar,
Ms. Jayashree Patra,
Ms. Ritushree Banerjee,
Mr. Bhaskar Mondal.

For the State : Mr. Arijit Ganguly,
Mr. Sanjib Kumar Dan.

For the Opposite Party/wife : Mr. Aniruddha Bhattacharya,
Mr. Arnab Roy.

Heard on : 27.07.2023

Judgment on : 21.08.2023

Shampa Dutt (Paul), J.:

1. The present revision has been preferred praying for quashing of the proceedings in First Information Report being Netaji Nagar Police Station Case No.464 of 2019 dated 22.12.2019 under Sections 498A/34/406 of the Indian Penal Code read with Sections 3/4 of the Dowry Prohibition Act pending before the learned Additional Chief Judicial Magistrate, Alipore.

2. The petitioner no.1 is the husband, the petitioner no.2 is the father-in-law, the petitioner no.3 is the mother-in-law respectively of the opposite party no.2/defacto complainant.

3. The petitioner no.1 got married to the opposite party no.2 on 18.11.2013 as an outcome of negotiations between the parties and their family members. Then differences cropped up between the parties while leading their conjugal life.

4. The petitioners state that slowly and steadily the involvement and interference of the parents of the opposite party only increased and had an adverse impact on the marital life of the parties.

5. The opposite party no.2 would often leave for her father's place and stay there for days on end. The opposite party hardly cared much for the petitioners, not even when the petitioner no.2 suffered a cerebral stroke sometime in October, 2015.

6. In October 2016, the parties came to learn that the opposite party no.2 is pregnant. Although the petitioners were elated to learn of such news, the opposite party no.2 was not. In fact the behaviour of the opposite party no.2 underwent further changes. The mother of the opposite party no.2 did not mend her ways rather continued her interference in the lives of the parties.

7. On May 15, 2017, the son of the petitioner no.1 and the complainant was born. All expenses incurred during the pregnancy and also at the time of the delivery, were borne by the petitioner no.1 single handedly, even though the opposite party no.2 is a working lady.

8. On 15.02.2019 the opposite party no.2 left for her paternal home with her son for a short trip but never returned thereafter to her matrimonial home.

9. Till the date of lodging of the instant false criminal case there were regular messages being exchanged between the couple over SMS and Whatsapp platform where the opposite party no.2 even mentioned to make arrangements of mutual separation since she did not want to return. The opposite party no.2 in these Whatsapp and SMS communications never accused the petitioners of any dowry demand or any physical harassment.

10. The petitioners used to visit opposite party no. 2's parents house with the intention to bring the opposite party no.2 and their son back to their home and to meet the child. However, for no reasons whatsoever on several occasions, the petitioners were denied entry and the petitioner no.1 was also denied meeting his son.

11. Finding no other alternative, the petitioner no.1 filed a writ petition praying for a writ of habeas corpus being W.P. No.22416 (W) of 2019 before this Hon'ble Court, **on 02.12.2019**. By an order dated 13.01.2020, a Division Bench of this Hon'ble Court disposed of the said writ petition, with a direction to approach the appropriate forum.

12. During this time the opposite party no.2 making false allegation filed an application under Section 27 of the Special Marriage Act on **13.08.2019** against the petitioner no.1 praying for a decree of divorce before the learned District Judge at Alipore. The said application was registered as Matrimonial Suit 2191 of 2019 and is presently pending before the learned 6th Additional District Judge at Alipore for disposal.

13. Soon after, a written complaint was lodged by the opposite party no.2 leading to **the instant case**, being Netaji Nagar Police Station case No.464 of 2019 dated **22.12.2019** under Sections 498A/34/406 of the India Penal Code, 1860 read with Sections 3/4 of the Dowry Prohibition Act with an ulterior motive at Netaji Nagar Police Station alleging as follows:-

“The opposite party no.2 got married to the petitioner no.1 on 18th November, 2013. Soon after marriage the petitioner no.1 used to perpetrate torture upon the opposite party no.2 on petty issues. The petitioner no.1 and his family members demanded a dowry of Rs.20,00,000/-. Since the father of the opposite party no.2 is a retired person he could not provide the said amount of money and as a result of which the torture upon her escalated. On 15.05.2017 a male child was born out of the wedlock. During her pregnancy the petitioners regularly perpetrated torture upon her and she was also forced to meet her own expense and that of her child as the petitioner refused to provide for the daily expenses. On 15.02.2019 the petitioners started renovation work in their house due to which her child fell ill. When the opposite party no.2 requested them to stop the renovation, the petitioners refused to do so and they forced the opposite party no.2 to leave her matrimonial home. On 24.02.2019, the petitioner no.1 went to the parental home of the opposite party no.2 and tried to take away the child forcefully. On 01.03.2019 the petitioner nos. 2 and 3 along with one Saibal Ray came to the opposite party no.2's parental home and tried to take away the child. When the opposite party no.2 protested, she was abused and was also threatened. The Stridhan articles of the opposite party no.2 are presently in the custody of the petitioners.”

14. It is stated that the petitioners were granted anticipatory bail by a Division Bench of this court, as no case under Section 498A/34/406 of the Indian Penal Code, 1860 or under Sections 3/ 4 of the Dowry Prohibition Act had been made out against the petitioners.

15. On completion of investigation, police submitted a charge sheet under Sections 498A/34/406 of IPC on 07.06.2021 against all the petitioners.

16. **Mr. Jayanta Narayan Chatterjee, learned counsel for the petitioners** has submitted that from the perusal of the First Information Report, it is evident that the petitioners had never been entrusted with any property of the opposite party no.2, which could have been misappropriated by the petitioners. In absence of the element of 'entrustment' in favour of the petitioners and 'misappropriation' thereof, no case of commission of criminal breach of trust can be said to have been committed by the petitioners herein.

17. It is further submitted that the petitioners have been falsely implicated in the instant case, as there are no ingredients in the First Information Report that would point at the petitioners for commission of offences 498A/34/406 of the Indian Penal Code or under Sections 3/4 of the Dowry Prohibition Act.

18. The petitioners have never caused any kind of injury or harm in any form and grievous injury in particular to the life, limb or health of the defacto complainant.

19. The opposite party no.2 had on her own will and choice **left her matrimonial house on February 15, 2019** in the guise of a short trip. She has now ensured that the petitioner no.1 does not get to even meet his child and as such has been continuously inflicting mental cruelty upon the petitioners on that score itself.

20. The lodging of the instant First Information Report was a completely planned move only to harass the petitioners.

21. The petitioners state that when no case is made out in the First Information Report, in view of the facts considered, the continuation of the

present proceeding is nothing but a gross abuse of the process of the court and as such the proceedings being bad in law is liable to be set aside and/or quashed.

22. **Mr. Arijit Ganguly learned counsel for the State** has placed the case diary.

23. **Mr. Aniruddha Bhattacharya, learned counsel for the opposite party no.2** has submitted that the contents in written complaint clearly make out the offenses as stated and as such the present case should be permitted to proceed towards trial (the opposite party no.2 was allegedly inflicted with mental and physical cruelty). The revision is thus liable to be dismissed.

24. **From the materials on record including the case diary the following facts are before this court:-**

- i) The petitioner no.1 and the opposite party no.2 were married on 18.11.2013.
- ii) A son was born on 25.05.2017.
- iii) The opposite party no.2 left her matrimonial home with the child on 15.02.2019.
- iv) The opposite party no.2 filed a case under Section 27 of the Special Marriage Act on 13.08.2019 **praying for a decree of divorce** against the petitioner no.1 at Alipore Court being Mat Suit No.2191 of 2019.
- v) The petitioner no.1 was having difficulty to see his child since 15.02.2019, when the opposite party no.2 left the house with the child. She had also filed for divorce on 13.08.2019.

vi) **Having no access to his child, the petitioner no.1 filed a writ of habeas corpus being number W.P. No.22416 (W) of 2019 on 02.12.2019.**

vii) **On 22.12.2019, the opposite party no.2 filed the present case against the petitioners, twenty days after the petitioner filed the writ petition.**

viii) The writ petition was disposed of on 13.01.2020 on a report of the Police to the petitioner no.1's complaint and the petitioner no. 1 was directed to approach the appropriate forum for his grievance, as to denial of access to his child.

ix) **It is stated in the complaint** that the opposite party no.2 was mentally forced to leave her matrimonial home on 15.02.2019 due to inconvenience, as renovation had been undertaken in the house.

x) **From the written complaint dated 22.12.2019, it appears that the allegations of torture is general in nature with allegations against the petitioner no.1 of trying to take away the child.**

xi) **The complaint has been filed 20 days after the writ petition (Habeas Corpus) was filed on 02.12.2019.**

xii) **The written complaint was filed 10 months after the opposite party no.2 left her matrimonial home.**

25. **These facts thus show that the present case was filed as an afterthought, ten months after leaving her matrimonial home, and 20 days after the petitioner filed the writ petition as he was denied access to his child.**

26. **Prior to this there was no complaint by the opposite party no.2, either regarding any torture nor regarding the petitioner no. 1 trying to take away the child from her, but she had filed for divorce on 13.08.2019.**

27. All her articles have been received by the opposite party no.2. The articles were all in the custody of the opposite party no.2 when she was in her matrimonial home and she left those behind in her matrimonial home. The articles were never entrusted to the petitioners by the opposite party no.2. There being no entrustment, the ingredients required to constitute the offense under Section 406 of IPC is absent.

28. **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 purpose 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 such demand.

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

- (1) A woman was married;
- (2) She was subjected to cruelty;
- (3) Such cruelty consisted in —
 - (i) Any willful 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.”

29. In **Kahkashan Kausar @ Sonam & Ors. vs. State of Bihar & Ors.**, **2022 LiveLaw (SC) 141**, 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.”

30. The learned counsel for the opposite party no.2 has also relied upon Paras 10, 18 of the said judgment:-

Kahkashan Kausar & Ors. vs State of Bihar & Ors., (2022) 6

SCC 599, the Supreme Court held:-

“10. 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 appellant in-laws are in the nature of general omnibus allegations and therefore liable to be quashed?”

*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.”*

31. Surprisingly the said paragraphs support the facts in the present case in respect of the petitioners, which also do not warrant the prosecution of the petitioners.

32. **The judgment of a Co-ordinate Bench of this court in CRR 2812-2815 of 2018 has also been relied upon on behalf of the opposite party no.2 (paras 17 and 19).**

“17. In the case of Bhajanlal it is formulated that the allegations in the FIR of the complaint even if, they are taken

on their face value and accepted entirety do not constitute the offence alleged, in such cases no question of appreciating evidences arises, it is a matter merely of looking at the complaint or the FIR to decide whether the offence alleged is disclosed or not. In such cases it would be legitimate in the High Court to hold that it would be manifestly unjust to allow the process of the Criminal Court to be issued against the accused persons.”

The said paragraph also applies to the facts in the present case.

“19. In the present case it appears that there is a long hand petition of complaint written by the complainant herself. It contains some instances and allegations of torture committed by the accused persons. Some allegations is of such a nature as is likely to causes grave injury or torture to life, or limb or health of the complainant. The complaint also mentioned day to day affairs; it disclosed the allegation of mental torture inflicted upon the de facto complainant by the petitioners. On receiving the complaint police registered a criminal case and started investigation. During the course of investigation some stridhan articles were seized from the possession of the petitioners. The statement of mother and father of the de facto complainant was recorded. Now the petitioners are before this court with a specific plea that the statement of the petition of complaint is false and contradictory to each other. At this juncture the fact disclosed in the complaint cannot be accepted to be false without examination of the de facto complainant at trial. Further more the facts in the complaint is not appears to me self contradictory. During the course of investigation, police should have collected some evidence of independent witnesses but they have failed to do so. The failure of the investigating agency to collect proper evidence itself cannot disprove the facts in the complaint. This is a very initial stage of this case where the charge sheet has been submitted after completion of investigation. At this juncture I find no justification to hold that allegation made in the FIR is not constitute an offence. Whether the prosecution would be able to prove the case at trial is the matter and future probabilities. In the criminal jurisdiction the High Court has no power to measure the probative value of evidences collected by the investigating agency by holding mini-trial.”

33. The said paragraph **relates to the facts** in the case which was being decided by the Co-ordinate Bench. The facts in the said case **included**

allegations of torture of such nature as to cause grave injury to life, limb, health etc. which is totally absent in the present case.

34. The allegations of torture as stated in the present case also do not have any of the ingredients required to constitute the offence under Section 498A of IPC.

35. **Mr. Bhattacharya** has argued that the said judgment of the co-ordinate Bench is binding on this court.

36. **Regarding the said argument**, it is placed on record that, when a Judge in deciding a case follows a precedent, he only regards himself bound by the principle underlying the judgment and not by the facts of that case, as no two cases have exactly the same facts. Thus, each case has to be decided on considering whether the facts on record, constitute the offenses alleged.

37. 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.”

38. The facts in the present case clearly come within clause 1 and 5 of para 102 in Bhajan Lal.

39. **The revisional application being CRR 1339 of 2020 is thus allowed.**

40. The First Information Report being Netaji Nagar Police Station Case No.464 of 2019 dated 22.12.2019 under Sections 498A/34/406 of the

Indian Penal Code read with Sections 3/4 of the Dowry Prohibition Act pending before the learned Additional Chief Judicial Magistrate, Alipore, is quashed against all the petitioners.

41. All connected applications, if any, stands disposed of.

42. Interim order, if any, stands vacated.

43. Copy of this judgment be sent to the learned Trial Court for necessary compliance.

44. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)