

28.08.2023  
SL No.28  
Court No.3

***Circuit Bench of Calcutta High Court  
At Jalpaiguri***

**CRR 182 of 2023**

In the matter of : Prabir Sarkar & Ors.

- Petitioners.

Mr. Nabankur Paul  
Mr. Abhishek Sarkar  
... For the petitioners.

Mr. Aditi Shankar Chakraborty  
Mr. Kallol Acharjee  
...for the State.

Affidavit of service filed on behalf of the petitioners is taken on record.

This is an application under Section 482 of the Code of Criminal Procedure seeking an order of quashment of the proceeding in GR Case No. 1330 of 2022 arising out of Ghoksadanga Police Station Case No. 425 of 2022 dated 4<sup>th</sup> November, 2022.

Heard Mr. Paul, learned counsel for the petitioner and Mr. Chakraborty, learned counsel representing the State.

It is submitted that after the dissolution of marriage between the defacto complainant and accused No. 1, Prabir Sarkar, the defacto complainant with an ulterior motive files this FIR against erstwhile husband as well as his second wife suppressing the fact that the defendant complainant was no more the wife of the petitioner no. 1, Prabir Sarkar.

It goes without saying that in order to maintain a complaint under Section 498A of the Indian Penal Code there has to have one husband or the relative of the husband. The marriage between the defacto complainant and her husband was dissolved by a decree of divorce pronounced by a competent court of law at least two years prior to filing of the FIR. From the FIR, it appears that the victim lady was allegedly assaulted by her husband at her matrimonial home on 10<sup>th</sup> June, 2022 while the marriage was dissolved on 29<sup>th</sup> September, 2020. There is no whisper regarding entrustment of any Stridhin property.

Under such circumstances, I am of the view that the victim lady lacks faith in truth and this proceeding ex facie appears to have been instituted to wreak vengeance. Therefore, it should not be allowed to remain in force to avert the abuse of process of law.

Ghoksadanga Police Station Case No. 425 of 2022 dated 4<sup>th</sup> November, 2022 and under Sections 498A/406/325/506/34 of the Indian Penal Code in the proceeding being GR Case No. 1330 of 2022 pending before the learned Additional Chief Judicial Magistrate, Mathabhanga, District-Cooch Behar stands quashed.

Let a copy of the judgment be sent down to the learned trial court for information and necessary action.

The accused person may be discharged from bail bonds.

This criminal revisional application is thus disposed of.

**(Siddhartha Roy Chowdhury,J)**