

IN THE HIGH COURT AT CALCUTTA
(Criminal Revisional Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 2255 of 2019

Sri Prabir Ray & Ors.

Vs

State of West Bengal & Anr.

For the Petitioners : Mr. Dipankar Aditya,
Ms. Tina Biswas.

For the State : Mr. Bidyut Kr. Roy,
Ms. Puspita Saha.

For the Opposite Party No. 2 : None.

Hearing concluded on : 11.03.2024

Judgment on : 28.03.2024

Shampa Dutt (Paul), J.:

1. The present revision has been preferred praying for quashing of the proceeding in G.R. No. 890/18 arising out of First Information Report being Lake Town, P.S. Case No. 177/2018 dated 18.11.2018 under Sections 498A/406 of the Indian Penal Code and 3 & 4 of the Dowry Prohibition Act, now pending before the Learned Judicial Magistrate, 2nd Court at Bidhannagar, 24 Parganas (North).
2. The Petitioners state that the Opposite Party No. 2/de facto complainant being the daughter-in-law of the petitioners no. 1 & 2 and the sister-in-law of the petitioner No.3 filed the written complaint in this case stating that she married Subhasis Ray, son and brother of the petitioners on 16.08.2018 at Kalighat temple by concealing that she was married earlier and also had a 8 years old son but in the form for registration of marriage falsely declared herself as unmarried. On 24.08.2018 (Eight days after marriage), she left her matrimonial home, with all her belongings and went to her work place at Bangalore.
3. It is further stated, that on 30.11.2018 **(3 months after marriage)** the present complaint was lodged, **though the de facto complainant never lived with the petitioners.**
4. In her written complaint she has admitted her prior marriage and also having a child from her previous marriage.
5. **The following Judgments are relied upon by the petitioners:-**

(i) ***Kahkashan Kausar @ Sonam & Ors. vs. State of Bihar & Ors., (2022) 6 SCC 599.***

“17. The abovementioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of Section 498-AIPC 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.”

(ii) ***Abhishek vs State of Madhya Pradesh, 2023 SCC OnLine SC 1083.***

“13. Instances of a husband's family members filing a petition to quash criminal proceedings launched against them by his wife in the midst of matrimonial disputes are neither a rarity nor of recent origin. Precedents aplenty abound on this score. We may now take note of some decisions of particular relevance. Recently, in Kahkashan Kausar alias Sonam v. State of Bihar [(2022) 6 SCC 599], this Court had occasion to deal with a similar situation where the High Court had refused to quash a FIR registered for various offences, including Section 498A IPC. Noting that the foremost issue that required determination was whether allegations made against the in-laws were general omnibus allegations which would be liable to be quashed, this Court referred to earlier decisions wherein concern was expressed over the misuse of Section 498A IPC and the increased tendency to implicate relatives of the husband in matrimonial disputes. This Court observed that false implications by way of general omnibus allegations made in the course of matrimonial disputes, if left unchecked,

would result in misuse of the process of law. On the facts of that case, it was found that no specific allegations were made against the in-laws by the wife and it was held that allowing their prosecution in the absence of clear allegations against the in-laws would result in an abuse of the process of law. It was also noted that a criminal trial, leading to an eventual acquittal, would inflict severe scars upon the accused and such an exercise ought to be discouraged.”

(iii) Mahalakshmi & Ors. vs State of Karnataka & Anr., 2023 SCC

OnLine SC 1622.

*“12. Having considered the charge sheet filed, we are of the view that the assertions made therein are very vague and general. **One instance unless portentous, in the absence of any material evidence of interference and involvement in the marital life of the complainant, may not be sufficient to implicate the person as having committed cruelty under section 498A of the IPC. Given that the appellants were not residing at the marital home, and appellant no. 1 was not even living in India, the absence of specific details that constitute cruelty, we would accept the present appeal.”***

6. The allegations in the written complaint are general in nature and do not make out even a prima facie case against the petitioners in respect of the offences alleged.
7. There are no materials on record to show that the ingredients required to constitute the offences alleged are present against any of the petitioners and permitting such a case to proceed towards trial will be an abuse of the process of law and as such the proceeding is liable to be quashed.
8. **CRR 2255 of 2019 is allowed.**

9. The proceeding of G.R. No. 890/18 arising out of First Information Report being Lake Town, P.S. Case No. 177/2018 dated 18.11.2018 under Sections 498A/406 of the Indian Penal Code and 3 & 4 of the Dowry Prohibition Act, now pending before the Learned Judicial Magistrate, 2nd Court at Bidhannagar, 24 Parganas (North), **is hereby quashed in respect of the petitioners.**
10. All connected applications, if any, stand disposed of.
11. There will be no order as to costs.
12. Interim order, if any, stands vacated.
13. Copy of this judgment be sent to the learned Trial Court for necessary compliance.
14. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)