

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

CRR 2449 of 2016

Aparna Tripathi

Vs.

The State of West Bengal & Ors.

WITH

C.R.R. 389 of 2017

Karunendra Tripathi & Ors.

Versus

The State of West Bengal & Another

For the Petitioners
In CRR 389 of 2017

: Ms. Monika Kalra, Adv.
Mr. Satadru Lahiri, Adv.
Md. Wasim Akram, Adv.
Ms. Prerana Vishwas, Adv.
Mr. Shantam Gulati, Adv.
Mr. Saswata Tripathi, Adv.

For the Opposite Party No. 2
In CRR 389 of 2017

: Mr. Angshuman Chakraborty, Adv.
Mr. Shashanka Shekhar Saha, Adv.

For the Petitioner : Mr.Angshuman Chakraborty, Adv.
In CRR 2449 of 2016 Mr. Shashanka Shekhar Saha, Adv.

For the Opposite Parties : Ms. Monika Kalra, Adv.
In CRR 2449 of 2016 Mr. Satadru Lahiri, Adv.
Md. Wasim Akram, Adv.
Ms. Prerana Vishwas, Adv.
Mr. Shantam Gulati, Adv.
Mr. Saswata Tripathi, Adv.

For the State : Mr. Anand Keshari, Adv.

Heard on : 02.09.2025

Judgment on : 26.09.2025

Ajay Kumar Gupta, J:

1. **In CRR 2449 of 2016:** The Petitioner, Aparna Tripathi, wife of opposite party no. 2, Gyanendra Kumar Tripathi, has filed this application under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.') challenging the correctness, legality and propriety of an order dated 04.06.2016 passed by the Learned Additional District & Sessions Judge, 1st Court, Haldia, Purbo Medinipore in connection with S.T. 4/12/14.
2. By the said order, the Learned Judge was pleased to dispose of the petition under Section 227 of the Cr.P.C. dated 06.02.2016 filed by the opposite party no. 2 and 3 herein and was pleased to hold that

there is no ingredient and/or materials found under Section 314 of the Indian Penal Code against opposite party nos. 2 and 3. However, it was observed that there are materials for the offences punishable under Section 498A/323/506 of IPC and Sections 3/4 of the D.P. Act against Gyanendra Kumar Tripathi and Karunendra Tripathi and therefore, the record was sent to the Learned ACJM, Haldia, for its disposal.

3. **In CRR 389 of 2017:** The three Petitioners including Karunendra Tripathi have preferred this Criminal Revisional application under Section 482 of the CrPC seeking quashing of the proceeding being G.R. Case No. 220 of 2013 arising out of Haldia Police Station Case No. 24 dated 22.02.2013 under Sections 498A/323/506/34 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC') read with Sections 3/4 of the Dowry Prohibition Act, 1961 (hereinafter referred to as 'DP Act') pending before the Court of the Learned Additional Chief Judicial Magistrate, Haldia.
4. Both the Revisional applications are being heard analogously since both the matters arose from the same allegations and the same FIR as aforesaid, made by the petitioner/wife, and have been taken up for disposal by a common judgment for the sake of convenience and to avoid repetition.

FACTS OF THE CASE

5. The brief facts of the case of the petitioners, essential for the fair and proper adjudication of the instant cases, are as follows: -
 - a. The petitioner no. 1 herein is the brother-in-law, petitioner no. 2, the uncle, and petitioner no. 3, the second wife of Gyanendra Kumar Tripathi.
 - b. On 22nd February, 2013, Opposite Party No.2 (wife) lodged a complaint at Haldia P.S. alleging that after her marriage with Gyanendra Kumar Tripathi on 28th June, 2009, she was subjected to cruelty and dowry demands. She further alleged that her husband had an extra-marital affair with one Shweta Mishra (w/o Chunilal Tripathi), and that Petitioner Nos.1 and 2 threatened her. An FIR being Haldia P.S. Case No.24/2013 was registered under Sections 498A/323/506/34 IPC and Sections 3 & 4 DP Act. On 28th March, 2013, the IO sought addition of Section 314 IPC, which the Ld. ACJM, Haldia allowed.
 - c. The petitioners alleged that after the purported investigation, on 29th June, 2013, Charge Sheet No.77/2013 was filed under Sections 498A/323/314/506/34 IPC and Sections 3 & 4 DP Act against four accused persons, including the Petitioners.
 - d. The petitioners alleged that after compliance of Section 207 of the CrPC, the case was committed by the Learned ACJM to the Court

of the Learned Additional District & Sessions Judge, Fast Track Court, Purba Medinipur for its trial.

- e. The petitioners alleged that they prayed for discharge. However, after hearing, vide Order dated March 18, 2015, the Learned Additional District & Sessions Judge was pleased to reject their prayer for discharge.
- f. Subsequently, on a joint discharge plea by the husband and Petitioner no. 1, the Learned Judge, by order dated 4th June, 2016, partly allowed discharge, deleting section 314 of the IPC and remanding the case to the Learned ACJM.
- g. Aggrieved thereby, the opposite party no. 2 filed a revision under section 482 of the Cr. P.C. before this Hon'ble Court, registered as C.R.R. no. 2449 of 2016.
- h. The petitioners contend that they are innocent, with clean antecedents, and have been falsely implicated in the case merely due to their association with the husband of opposite party no. 2.
- i. Petitioner no. 1 is the brother-in-law of opposite party no. 2. The FIR and statements recorded under Section 161 CrPC do not attribute any specific role to him, and his implication is solely on account of his relation with the husband.
- j. Petitioner no. 2 is not related to the husband of opposite party no. 2 by marriage or adoption and resides elsewhere. He cannot be

treated as a “relative” within the meaning of Section 498A IPC. Thus, continuation of proceedings against him amounts to abuse of the process of law.

- k. Petitioner no. 3 is only an acquaintance of the husband of opposite party no. 2. The allegations against her are vague and not supported by any material to raise even a strong suspicion warranting framing of charge.
- l. The petitioners argue that even if the prosecution story is accepted in its entirety, the essential ingredients of offences under Sections 498A/323/506/34 IPC are lacking. The FIR contains only bald and general allegations without specifying the role of the petitioners.
- m. It is settled law that mere mention of penal provisions without specific particulars is of no legal consequence. In the present case, the vague allegations do not disclose commission of any offence by the petitioners. Allowing the proceedings to continue would prejudice them.
- n. The institution of proceedings by opposite party no. 2 is malicious and motivated, intended to harass the petitioners. Particularly, petitioners no. 2 and 3, who cannot even be termed as “relatives,” have been falsely implicated.

o. The proceedings are therefore frivolous, baseless, and constitute a misuse of criminal law, violating Article 21 of the Constitution of India.

p. Being aggrieved by and dissatisfied with the proceeding of G.R. No. 220 of 2013 arising out of Haldia Police Station Case No 24 dated February 22, 2013 under Sections 498A/323/506/34 of the IPC read with Sections 3 and 4 of the DP Act pending before the Court of the Learned Additional Chief Judicial Magistrate, Haldia, the petitioners beg to prefer this petition before this Hon'ble Court.

SUBMISSION ON BEHALF OF THE PETITIONERS IN CRR 389 OF

2017:

6. Learned counsel appearing on behalf of the petitioners in CRR 389 of 2017 argued and submitted that the petitioners are innocent and they have been falsely implicated in this case by the opposite party no. 2 herein/wife, only for her an ulterior motive for wreaking vengeance on the accused and with a view to spite them due to private and personal grudge.
7. The petitioner nos. 1 and 2 attended a meeting and tried to settle their matrimonial dispute in a Salishi held at Halia on 25th January, 2013. They never threatened the opposite party no. 2, in any manner. Even if the FIR is read in between line, their role in committing the offence has not been specifically attributed. The allegations are made

against the husband. He was working as an Assistant Commissioner in Customs and Central Excise at Haldia-I Division. She requested the then Commissioner about her mental and physical torture inflicted upon her by her husband. But the Commissioner requested her to remain silent for some time, and the matter will be sorted out.

8. It was alleged that her husband beat her ruthlessly on various occasions. She further alleged that her husband had an extra-marital relationship with another lady, namely Shweta Mishra, w/o Chunilal Tripathi, petitioner herein, who has left her husband and daughter and engaged with her husband for squashing his money. The husband is not the petitioner herein.
9. The allegations levelled against the present petitioners do not constitute offences under Section 498A or 323 or 506 or 34 of IPC and Sections 3/4 of the DP Act. Therefore, the entire proceeding is required to be quashed to prevent the abuse of the process of law and to secure the ends of justice.
10. It was further submitted that the written complaint does not attribute any specific role to the present petitioners. The allegations therein are vague and general. Permitting such cases to proceed would deter well-wishers and family members from intervening to amicably resolve matrimonial disputes, as they may face the risk of false implication in criminal proceedings. Even during the investigation, no

material has surfaced against the petitioners to substantiate the alleged offences under Sections 498A/323/506/34 IPC and Sections 3 and 4 of the Dowry Prohibition Act.

11. It was further submitted that after divorce from the first wife/Aparna Tripathi vide order dated 31st May, 2024, Gyanendra Kumar Tripathi married petitioner no. 3, and she is now the legally married wife of Gyanendra Kumar Tripathi. At the time of the divorce being granted, the opposite party no. 2/1st wife was paid a sum of 40 lakhs as permanent alimony.
12. Learned counsel has placed reliance on a judgment passed in the case of ***U. Suvetha v. State by Inspector of Police and Anr.***¹, to bolster the contention that the petitioner no. 3 never came within the purview of family member at the time the alleged offence was committed. Even for the same argument if she was living with Gyanendra Tripathi as his girlfriend/concubine does not falls under the status of relative. The status of a relative is conferred only by blood or marriage or adoption. A girlfriend or concubine, who is naturally not connected by blood or marriage, is not a relative of the husband, as per Section 498A IPC and cannot be charged under Section 498A of IPC. Therefore, the ingredients of cruelty defined under Section 498A of IPC are not attracted against her.

¹ (2009) 6 SCC 757

13. Finally, learned counsel prays for the quashing of the proceeding.

SUBMISSION ON BEHALF OF THE PETITIONER IN CRR 2449 OF 2016 OPPOSITE PARTY NO.2 IN CRR 389 OF 2017:

14. Learned counsel appearing on behalf of the Opposite Party No. 2/wife strongly opposes the prayer of the learned counsel for the petitioners and submits that they were very much involved in the offences as alleged. On the instigation of the petitioner, Shweta Mishra, her husband always perpetrated cruelty upon her both physically and mentally. During the investigation as well, some incriminating materials were collected by the investigating officer against her, and upon conclusion of the investigation, a Charge Sheet was submitted against the present petitioners when the materials established a prima facie case. Therefore, the revisional application filed by the petitioners is liable to be dismissed.

SUBMISSION ON BEHALF OF THE STATE:

15. Learned counsel appearing on behalf of the State produced the case diary and drew the attention of this Court to the fact that during the investigation, sufficient materials were collected against the present petitioners. They were very much involved, and they have threatened her with dire consequences. Petitioner no.3 specifically played a vital role. A major reason behind the matrimonial discords was the illicit relationship between the husband and the petitioner no. 3. She, too,

had allegedly threatened Aparna Tripathi with dire consequences. Therefore, at least Section 506 of the IPC is attracted against her. Therefore, this Revisional application should be dismissed.

DISCUSSION AND FINDINGS BY THIS COURT:

16. Having heard the arguments and submissions advanced by the parties and upon perusal of the materials, particularly the statement of the complainant and other witnesses under section 161, this Court does not find any particular or specific allegations against the petitioner nos.1 and 2.
17. Even in the Section 164 Statement, the opposite party no. 2 did not mention any allegation against them. All the allegations available in the 161 and 164 statements were made against other accused person. The complainant has alleged that she was subjected to physical and mental cruelty arising out of unlawful demands for money towards purchase of a flat, car, etc. On her failure to meet such demands, she was physically assaulted. She has further stated that her husband maintained an illicit relationship with another woman and threatened her with dire consequences, including harm to her parents, if she did not vacate her matrimonial home. These allegations led to the registration of FIR dated 22nd February, 2013. Upon consideration of the materials on record, this Court finds no

specific allegation against petitioner nos. 1 and 2. However, prima facie incriminating materials are forthcoming against petitioner no. 3.

18. She admitted that a meeting was arranged between Aparna Tripathi and Gyanendra Kumar Tripathi at Haldia and in the said meeting, her brother-in-law, Karunendra Tripathi (petitioner no. 1 herein) and Ram Anup Tripathi (petitioner no. 2) were present and threatened her that she should provide money regularly as earlier, otherwise her husband would leave her, but nothing to that effect was found during the investigation against Petitioner no.1 and Petitioner No.2. However, there is incriminating evidence found in the FIR and during investigation against the Petitioner no.3 with regards to allegation of threatening her to leave matrimonial home otherwise she would kill her father and mother. Ultimately, due to such previous relationship, her husband got married with Petitioner no.3 after obtaining divorce.
19. Accordingly, **CRR 389 of 2017** is **partly allowed**.
20. The proceeding being G.R. Case No. 220 of 2013 arising out of Haldia Police Station Case No. 24 dated 22.02.2013 under Sections 498A/323/506/34 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC') read with Sections 3/4 of the Dowry Prohibition Act, 1961 (hereinafter referred to as 'DP Act') pending before the Court of the Learned Additional Chief Judicial Magistrate, Haldia is hereby quashed, insofar as the petitioner nos. 1 and 2 are concerned.

21. This Court, however, makes it clear that the complaint against the Petitioner no.3, namely, Shweta Mishra, will continue, and the case will be decided on its own merits by the Learned Magistrate concerned independently and in accordance with law after a full-fledged trial, however, without being influenced by any of the observations made by this Court.
22. Upon perusal of the impugned order dated 04.06.2016 passed by the Learned Additional District and Sessions Judge, 1st Court, Haldia, Purbo Medinipore, this Court finds there is no material against the present petitioners with regard to the alleged offence punishable under Section 314 of the IPC since the medical document indicates otherwise. Therefore, this Court finds there is no illegality, impropriety or perversity in the impugned order dated 04.06.2016 in an application filed on 06.02.2016.
23. In the above background, the impugned order dated 04.06.2016 passed by the Learned Additional District and Sessions Judge, 1st Court, Haldia, Purbo Mednipore calls for no interference with regard to findings under section 314 of the IPC.
24. Accordingly, **CRR 2449 of 2016** is **dismissed**.
25. Connected applications, if any, are also, thus, disposed of.
26. Let a copy of this Judgment be sent to the Learned Court below for information.

27. Interim order, if any, stands vacated.
28. Case Diary, if any, be returned to the learned counsel for the State.
29. Parties shall act on the server copies of this Judgment uploaded on the website of this Court.
30. Urgent photostat certified copy of this Judgment, if applied for, is to be given as expeditiously to the parties on compliance of all legal formalities.

(Ajay Kumar Gupta, J)

P. Adak (P.A.)