

19.09.2025
Ct. No. 446
Item No.6
KS

C.R.R. 816 of 2025

In the matter of: **Anirban Basak & Ors.**

..... Petitioners

Mr. Kushal Kumar Mukherjee
Mrs. Ashrukana Maji
Mr. Narottam Acharyya

....For the Petitioners

Mr. Sourav Mondal
Mr. Subhojit Chowdhury
Mr. Rony Mondal
Mr. Archan Dutta

.....For the O.P. No.2

Mr. Prasun Kumar Dutta, Ld. A.P.P.
Md. Kutubuddin

..... For the State

1. This instant criminal revisional application has been filed under Sections 482 read with Section 401 of the Code of Criminal Procedure, 1973 corresponding to Section 528 read with Section 442 of the B.N.S.S. filed on behalf of the husband, parents-in-law and other in-laws for quashing of the proceedings in connection with GR Case No.4405 of 2023 arising out of Naihati Police Station Case No.172/23 dated 23rd May, 2023 under Sections 498A/ 406/ 325/ 354/ 384/ 504/ 506/ 34 of the Indian Penal Code, 1860 which is pending before the learned 1st Judicial Magistrate, Barrackpore, North 24 Parganas.

Fact of the case:-

2. The case of the petitioners bereft of any detail is that the marriage took place between the petitioner no.1 and O.P. No.2 on 24th July, 2019 and thereafter, the dispute cropped up between the parties. Despite that marriage was consummated and the opposite party no.2 herein gave birth to a child on 24th November, 2021. The birth of a child did not persuade the matrimonial discord, which enhanced day by day and ultimately, since 19th June, 2022, the parties started living separately.
3. The germane of this case originated from the complaint lodged by the opposite party no.2 in terms of Section 156(3) of the Code of Criminal Procedure and registered as M.P. Case No.846 of 2023 and the learned

Magistrate sent the aforesaid complaint to the Officer-in-Charge of Naihati Police Station for initiation of investigation, which was registered as Naihati Police Station Case No.172 of 2023 dated 23rd May, 2023 against the present petitioners. The said complaint was lodged with an allegation against the present petitioners that she was treated with mental cruelty and physical torture for the demand of dowry with the hope for better future and she tolerated the same and continued with the matrimonial life and resided at the matrimonial house. However, lastly the level of torture increased and she was driven out from her matrimonial house on 19th June, 2022 and thereafter again she was physically assaulted by the petitioner on 14th April, 2023. The Investigating authority after completion of investigation, submits the charge-sheet in this case on 23.06.2023, against all the present petitioners and the learned Magistrate took cognizance of the aforesaid charge-sheet and transferred the same before the Court of learned Judicial Magistrate, Barrackpore for trial.

Submission:-

4. It is submitted by the learned advocate appearing for the petitioners that the opposite party no.2/de facto complainant has failed to make out any case under Sections 498A/ 323/ 325/ 307/ 506/ 34 of the Indian Penal Code and the complaint is silent about the specific incident happened with any specific overact by any of the petitioners.
5. It is further pointed out that even if the contents of the complaint is considered certain allegations are found, which are mostly attributed against the petitioner no.1/husband and no iota of allegation can be found against the other respondents but all of them have been arraigned as accused amongst them, the parents-in-law being the petitioner nos.2 and 3, who are aged persons are also there.
6. That apart, there is a delay in lodging the alleged complaint which is devoid of any explanation and de hors the provision of Section 154(1) and the

complaint under Section 156(3) violates the conditions imposed by the Hon'ble Supreme Court in the case of *Priyanka Srivastava & Anr. Vs. State of Uttar Pradesh & Ors.* reported in *AIR 2015 SC (Cri.) 800* and, therefore, it ought to have been dismissed.

7. Learned advocate relied upon the decision of the Hon'ble Supreme Court reported in the case of *Achin Gupta Vs. State of Haryana & Ors.* reported in *2024 Live Law (SC) 343* it is observed that where a person is made to tease a criminal trial on any specific instances of criminal conduct where some general and sweeping allegations without bringing on record and if the same is allowed to be continued it would be nothing but the abuse of the process of the Court.
8. Per contra, the submission advanced on behalf of the learned advocate appearing for the opposite party/wife is that at the outset that the point raised by the learned advocate appearing for the petitioners that the provision of Section 154(1) was not followed by the opposite party is not correct in view of the complaint itself, where it was annexed which would show that after the concerned police authorities failed to take any action, the complaint was submitted before the Assistant Commissioner of Police and since no action was taken on his part, subsequently, the complaint under Section 156(3) was filed before the Court.
9. It is further argued that there was persistent torture as per the statement of the de facto complainant and it is apparent in the written complaint, as alleged, in Section 156(3) of the Code of Criminal Procedure. That apart, the investigation has been completed and the charge-sheet has been submitted and it would be in course of trial, the truth will be come out as to whether the opposite party no.2 was inflicted with mental and physical torture or whether the petitioners are in drunken condition tortured her inhumanly since long and whether she was driven out after being physically tortured from the matrimonial home or not and therefore, at this stage, if the said

proceeding is quashed, the present opposite party no.2 will be highly prejudiced.

10. The learned advocate representing the State respondent produced the copy of the Case Diary and draws the attention of this Court to the annexure to the said complaint under Section 156(3) whereby it can be seen that the complaint was forwarded to the Assistant Commissioner of Police.
11. It is further submitted that the statement, as recorded by the other witnesses under Section 161 of the Code of Criminal Procedure supports the case of the de facto complainant.

Analysis:-

12. Having heard both the learned counsel appearing for the parties and on going through the entire materials on record, the point which is required to be considered is that whether the instant proceeding, which has been lodged by the opposite party no.2/wife against the in-laws alleging mental and physical torture and where after completion of investigation, the charge-sheet has been submitted against them can be quashed, at this stage, under the garb of inherent power of this Court or not.
13. In this regard, at the outset, the contents of the complaint needs to be looked into, which prima facie reveals that the marriage is of in the year 2019 and subsequently, they were blessed with a child from such wedlock in the year 2021 and they lived till June, 2022 and, therefore, it is clear that they led the conjugal life for 4 years despite having their matrimonial discord, if any. The content of the complaint further manifests that the petitioner no.1 is an arrogant and headstrong person and also tortured and humiliated the opposite party no.2 in inebriated condition.
14. It further reveals that the in-laws i.e. the accused nos.2 to 6, who are the present petitioner nos.2 to 6 always teased and used indecent and vulgar language and always provoked by teasing towards the complainant and she was not treated at her matrimonial house as per her status.

15. It further reveals that during the period of pregnancy of petitioner nos.1 and 2, she had to suffer a lot since she was not provided proper foods, medicine, doctors check up and medical etc. Lastly, on 19th June, 2022, the petitioner under intoxicated condition without any rhyme and reason hurled indecent languages and thrown utensils upon her and tried to strangle her with the intention to kill her. On the next day, the brother of the complainant was called and asked him to take her to the hospital when thereafter he also insulted and ultimately, she was driven out from her matrimonial home.
16. In this background, let me first go through the Case Diary, where the various statements recorded under Section 161 can be found.
17. On a careful perusal of the various statements made by the witnesses, who are the mother, sister and some known persons of the locality of the parental home of the opposite party no.2 and going through the same, prima facie, it can be seen that those are omnibus in nature excepting the specific allegation and overact against the petitioner no.1 nothing can be found, which can attract the allegations levelled against the other opposite parties.
18. On the said factual backdrop, let me now consider the judgment in the case of *Achin Gupta Vs. State of Haryana & Anr.* reported in **2024 Live Law SC 343**. In the said case, the situation is identical when a complaint of harassment or ill treatment by the wife was lodged and while dealing with the order passed by the High Court regarding quashing of charge-sheet, the matter travelled up to the Hon'ble Supreme Court and it was observed considering the various aspect of the matter that observed in paragraph 25 of the said decision, which reads as follows:-

"25. If a person is made to face a criminal trial on some general and sweeping allegations without brining on record any specific instances of criminal conduct, it is nothing but abuse of the process of the court. The court owes a duty to subject the allegations levelled in the complaint to a thorough scrutiny to find out, prima facie, whether there is any grain of truth in the allegations or whether there are made only with the sole object of involving certain individuals in a criminal charge, more particularly when a prosecution arises from a matrimonial dispute."

19. The Hon'ble Supreme Court took note of the decision of *Preeti Gupta Vs.*

State of Jharkhand reported in *2010 Criminal Law Journal* 4303 observed

that:-

"28. It is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our country. All the courts in our country including this court are flooded with matrimonial cases. This clearly demonstrates discontent and unrest in the family life of a large number of people of the society."

20. For the purpose of Section 498A, the provision is to be revisited, which reads

as follows:-

"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 women 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-

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."

21. It was observed further by the Hon'ble Supreme Court that:- *"when the conduct consists of direct action by one against the other, it can then properly be said to be aimed at the other, even though there is no desire to injure the other or to inflict misery on him. Thus, it may consist of a display of temperament, emotion, or perversion whereby the one gives vent to his or her own feelings, not intending to injure the other, but making the other the object-the butt-at whose expense the emotion is relieved."*

22. In the said case, the accused no.1 was an alcoholic person and the allegation

of torture of abuse and physical assault on account of demand of dowry was

made before the Court.

23. After considering the decision of the *State of Haryana & ors. Vs. Bhajan Lal*

& Ors. reported in *1992 Supp. (1) SCC* 335 regarding invoking power of

Section 482 of the Code of Criminal Procedure and the situation, where such

power can be exercised it was held and taken note of *Mahmood Ali & Ors.*

Vs. State of U.P. & Ors. reported in *2023 SCC Online SC* 950 which reads as

follows:-

"In one of the recent pronouncements of this Court in Mahmood Ali & ors. Vs. State of U.P. & Ors., 2023 SCC Online SC 950, authored by one of us (J.B. Pardiwala, J.), the legal principle applicable apropos Section 482 of the Cr.P.C. was examined. Therein, it was observed that when an accused comes before the High Court, invoking either the inherent power under Section 482 Cr.P.C. or the extraordinary jurisdiction under Article 226 of the Constitution, to get the FIR or the criminal proceedings quashed, essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive or

wreaking vengeance, then in such circumstances, the High Court owes a duty to look into the FIR with care and a little more closely. It was further observed that it will not be enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not as, in frivolous or vexatious proceedings, the court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection, to try and read between the lines."

Conclusion:-

24. Therefore, in view of the aforesaid observation of the Hon'ble Supreme Court as discussed above and taking note of the content of the F.I.R. coupled on scrutiny of the statements made by the witnesses under Section 161 since the charge-sheet has been submitted in this case and on the parameters decided in the case of *State of Haryana & ors. Vs. Bhajan Lal & Ors.*, this Court is of the view that if the proceeding is allowed to be continued against the present petitioner nos.2 to 6, it would be a gross abuse of the process of the law.
25. Accordingly, the prayers stands allowed partly and the proceeding pending before the learned Court be quashed in respect of the petitioner nos.3 to 6.
26. With this above observation/direction, criminal revisional application stands disposed of.
27. Let a copy of the order be forwarded to the learned Court at once.
28. All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(CHAITALI CHATTERJEE (DAS), J.)