

17.12.2025

Court No.34

Item.22

sg

CRR 652 of 2023

In the matter of: **Amit Baral**

...Petitioner.

Mr. Robiul Islam
Mr. Masooq Rahaman
Mr. Raju Mondal

...for the petitioner.

Mr. Debasish Roy
Mr. Arijit Ganguly
Mrs. Debjani Sahu

...for the State.

1. None appears to represent the opposite party. Affidavit of service filed by the petitioner be kept with the record. Notice was served upon the opposite party and it was delivered on 6th September, 2025. On previous occasion also despite service he did not turn up. Hence the matter is taken up in absence of the opposite party no.2.

2. This is an application under Section 482 read with Section 401 of Criminal Procedure Code, 1973 filed by the present petitioner being the husband for quashing all the proceeding pending before the Learned Chief Judicial Magistrate, Murshidabad at Berhampore under Section 498A/ 34 of the Indian Penal Code.

3. It is the fact of the case in a nut shell is that the marriage between the present petitioner and the defacto-complaint was solemnized about 12 to 15 years back and they were blessed with the

male child and after than she left the matrimonial home after three years of marriage and started residing at a paternal house. Despite all efforts being no other alternative petitioner filed a suit for decree of divorce MAT 5 of 2016 and despite receiving the summons the complainant did not turn up in the said suit to contest the divorce suit.

4. The said suit was decreed ex parte on March 20, 2017 under Hindu Marriage Act. It is the case of the petitioner that opposite party was well aware about the decree of divorce as she received the summons of the said suit but did not file any proceeding for setting aside the suit ex parte decree passed against her. Long thereafter this complaint has been lodged by the defacto-complainant/wife against the present petitioner along with his family members only in order to harass and heckle the petitioner since the petitioner was passed in 2017.

5. Learned advocate appearing on behalf of the petitioner submits that the complaint is devoid of iota of material to constitute the offence under Section 498A/ 34. The sum and substance of the complaint was only that the husband refused to take her back and general allegation of inflicting physical and mental torture by and all of a sudden six months prior to lodging of complaint she came to learn that the present petitioner and the other family members have sold their residential accommodation and she found her one brother-in-law, A. Baral to work in a shop at Berhampore. Therefore the complaint was lodged.

6. The learned advocate has relied upon a decision of ***Priti Gupta Vs. State of Jharkhand (2010) 7 SCC 667*** and also the ***State of Haryana Vs. Bhaganlal*** where the parameters were mentioned when this Court can exercise power under Section 482 of Cr.P.C. to quash the proceeding. Learned advocate representing the State, on the other hand, handed over Case Diary submits that the complaint was lodged admittedly after the decree of divorce was passed. There are some statements recorded by the Investigating Officer which prima facie attracts under Section 498A.

7. Heard the submission of both learned advocates, perused the records as well as Case Diary. The marriage is of 15 years old and they were also blessed with a male child. From the content of the petition filed by this Court by the petitioner it can be found that Parties were living separately since after three years of marriage but the complaint is lodged by the defacto-complainant in the year 2023. No iota of material is shown as to what triggered her to lodge the complaint alleging torture upon her.

8. On careful perusal of the contents of the complaint lodged on 6th January, 2023, Prima facie nothing can be found to manifest torture upon her both physically and mentally, by the in-laws and also the complaint is silent about mode and manner of torture inflicted as alleged. She admitted to live separately from her husband but did not mention the date since when she is not residing with her husband but taking note of her own averments of living separately since long

makes the allegation prima facie improbable on the fact of it so far the torture upon her as alleged.

9. That apart in the year 2023 suddenly she found her brother-in-law working at a shop of Berhampore, which cannot be a cause to rope the petitioners or the in-laws to criminal case and this also prima facie manifest the oblique motive of the complainant trying to degenerate the court proceeding a weapon of harassment or persecution. In the decision ***Preeti Gupta And Another Vs.State of Jharkhand and Another (supra)***, considering the increased matrimonial litigation the Hon'ble Supreme Court expressed the concern and held that the complaints under Section 498A IPC are mostly filed on trivial issues filed with oblique motive.

10. The Hon'ble Supreme Court in para 35 of the said decision observed "*the settled object of justice is to find out the truth and punish the guilty and protect to innocent. To find out the truth is the herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the 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.*"

11. In the instant case it can be found that husband filed the matrimonial suit in the year 2016 and the order was passed on 14th March, 2017 when the petition under Section 13 of Hindu Marriage Act was allowed. In the said order also it can be seen that learned

Court considered the fact that summons were sent through process server as well as through the registered post with A.D and the report of process server disclosed the refusal to accept the summons and therefore the court fixed the date for ex parte hearing. The Acknowledgement card was also returned with the signature of O.P herself that is present defacto-complainant that she was well aware about filing of matrimonial suit; despite that she neither appeared to controvert the allegation leveled against her in the said suit nor subsequently filed any application for setting aside such ex parte decree.

12. In view of the specific guidelines mentioned in the case of ***State of Haryana Vs. Bhajanlal 1992 Supp (1) SCC 335*** gave the categories of cases where in order to prevent abuse of process of Court. The High Court can exercise the power under Section 482 Cr.Pc to quash the FIR/Charge-sheet which includes 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 on that there is sufficient ground for producing against the accused. It is found that there is no allegation or specific allegations of any torture both either physical or mental as alleged to have been inflicted upon the present opposite party no. 2 and not only that no materials can be found from the written complaint for which she lodged such complaint, when admittedly she was living separately sine long before filing of the complaint on the ground of such torture.

13. Therefore, upon conspectuses of all and giving anxious consideration of the power of Section 482 Cr.Pc when to be exercised by this Court, this Court is of the view that it would be unfair to compel the present petitioner to undergo the criminal trial. Therefore, for the interest of justice, this Court is of the view that it would be appropriate if the proceeding pending before the learned Court be quashed against the present petitioner. Hence this criminal revisional application stands allowed. Proceeding pending before the learned Court is hereby quashed.

14. Hence this criminal revisional application stands allowed. The proceeding pending before the Learned Magistrate is hereby quashed against the petitioner.

15. No order as to costs.

16. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(Chaitali Chatterjee (Das), J.)