IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

PRESENT:
THE HON'BLE JUSTICE UDAY KUMAR

CRR 719 of 2023

Mr. Prem Kumar Agarwal & Ors.
-Vs-
The State of West Bengal & Anr.

For the Petitioners	: Mr. Ayan Bhattacharjee, Sr. Adv. Mr. Aditya Ratan Tewari
For the Opposite Party No.2	: Mr. Tarunjyoti Tewari Mr. Aniruddha Tewari Ms. Kausiki Bose
For the State	: Mr. Arijit Ganguly Ms. Srimoyee Roy
Hearing concluded on	: 21.02.2025
Judgment on	: 16.05.2025

UDAY KUMAR, J.: –

1. Prem Kumar Agarwal, Vinod Kumar Agarwal, and Lakshmi Agarwal (wife of Manoj Kumar Megotia) have filed this criminal revision application under Section 482 of the Code of Criminal Procedure (hereinafter referred to as 'Cr.P.C.'). They seek to quash Jamuria Police Station Case No. 413/2022, dated August 22, 2022, and registered under Sections 420, 406, 120B, and 506 of the Indian Penal Code (hereinafter referred to as 'IPC'), (GR Case No. 2750/2022). This case, initiated by Manoj Kumar Megotia on August 22, 2022, alleges a fraudulent business partnership and misappropriation of Rs. 10 lakhs.

2. This application arises from a severely strained marital relationship between Lakshmi Agarwal and Manoj Kumar Megotia, who married on June 3, 2015. Lakshmi Agarwal had previously filed a complaint with the Crime Against Women Cell in Gurugram on May 9, 2022. This was followed by a First Information Report (FIR) (Case No. 0149 dated August 8, 2022) at Women West Gurugram Police Station against her husband and in-laws, alleging dowry demands and severe cruelty, detailing extensive physical, mental, and emotional abuse, financial exploitation, and threats.

3. The concise prosecution story, as it unfolds from Manoj Kumar Megotia's written complaint, is that while residing in West Bengal and working in Singapore, he was approached by his father-in-law, Prem Kumar Agarwal, and brother-in-law, Vinod Agarwal, in October 2017. They urgently sought a loan of Rs. 10 lakhs for a tissue paper business in Gurugram, promising good returns and partnership. Trusting his in-laws, Manoj agreed. Consequently, he paid Rs. 6 lakhs in cash to his wife, Lakshmi, in Jamuria in October 2017, who then handed it over to her father in Gurugram in November 2017. In December 2017, Manoj paid another Rs. 4 lakhs in cash directly to his father-in-law in Jamuria. Subsequently, his brother, Sunny Megotia, invested an additional Rs. 4 lakhs in cash with Lakshmi's brother in December 2017, also for the same business venture.

4. While Manoj received a partial repayment of Rs. 50,000, he later agreed to adjust Rs. 4 lakhs towards his wife's medical and other expenses. Regarding the remaining Rs. 9.5 lakhs, Rs. 2 lakhs was deposited into his account, and Rs. 7.5 lakhs was supposedly placed in fixed deposits in Lakshmi's name, with the assurance that this amount was at his disposal.

5. However, Manoj later discovered that shortly after receiving the initial Rs. 6 lakhs, Lakshmi and her family allegedly engaged in several suspicious cash deposits into her accounts, seemingly to obscure the money trail. When he inquired about the fixed deposits, Lakshmi refused to transfer the funds to him.

6. Despite receiving the initial investments, Manoj's in-laws allegedly continued to ask for more money. He eventually realized that the promised business venture had never genuinely existed. When he demanded the return of his money, they allegedly threatened him and, with his wife's assistance, initiated false legal cases against him to extort more money. He also accused his wife of taking his sister's gold ornaments.

7. Having exhausted all other means to recover his Rs. 7.5 lakhs (plus interest), Manoj sent a legal notice, which was denied by his father-in-law. He believes that Lakshmi and her family conspired from the outset, using the marriage as a facade to fraudulently obtain money from him and his brother under the false pretext of a business loan and partnership. He seeks legal action and the registration of an FIR against his wife, father-in-law, and brother-in-law for cheating and conspiracy.

8. Consequently, the opposite party no. 2 (husband) filed a counter-FIR in Jamuria, West Bengal, against the petitioners, alleging cheating, criminal breach of trust, criminal conspiracy, and criminal intimidation related to a business proposal and an investment of Rs. 10 lakhs. The petitioners contended that this counter-FIR is false, retaliatory, and arises from the matrimonial discord. They highlighted inconsistencies in the husband's statements, provided evidence of the wife and brother's absence from the alleged place of transaction on the stated dates, and pointed out the husband's admission in a maintenance case that the disputed money was for maintenance. The District Judge in Paschim Bardhaman granted anticipatory bail to the petitioners, observing that the case appeared *prima facie* civil in nature.

9. Therefore, the petitioners prayed for the quashing of the proceedings initiated based on the said FIR, arguing that these criminal proceedings amount to malicious prosecution and an abuse of the process of the Court. Moreover, they asserted the absence of the essential ingredients of the alleged offenses, factual inconsistencies, delay in filing the FIR, the allegations being of a civil nature, and non-compliance with *Lalita Kumari* guidelines as material considerations.

10. In support of these contentions, Mr. Ayan Bhattacharjee, Learned Advocate for the petitioner, submitted that the prosecution's case is entirely false and fabricated, lodged by the complainant, Manoj Kumar Megotia, in retaliation for ongoing matrimonial disputes and the criminal proceedings initiated by his wife against him and his family for dowry demands and domestic violence. He argued that the allegations lack merit, are riddled with inconsistencies, and fail to establish the essential ingredients of the offenses alleged.

11. The wife (petitioner no. 3) lodged a complaint against her husband (complainant) and his family on May 9, 2022, followed by an FIR on August 8, 2022, concerning serious allegations of dowry demand and physical and mental torture. The husband's complaint surfaced shortly thereafter, on August 22, 2022, depicting financial deceit by the wife and her family. This sequence of events, the learned advocate argued, clearly indicates an attempt to arm-twist the petitioners and deflect from the serious allegations against the complainant and his family.

12. Furthermore, he submitted that the allegations are essentially civil in nature, and initiating criminal proceedings in such a matter would amount to an abuse of the process of law. The core of the complainant's allegations revolves around a purported business investment that allegedly failed. Even accepting the complainant's version at face value, the issue boils down to a potential breach of a promise regarding returns and partnership. Such disputes are inherently civil in nature and do not warrant the invocation of criminal law, especially when used as a tool for vengeance in a matrimonial context. The complainant's attempt to portray a simple business transaction as criminal cheating and breach of trust is a clear abuse of the legal process.

13. Mr. Bhattacharjee further submitted that the petitioners have already highlighted significant contradictions between the complainant's initial complaint and the evidence presented. For instance, the wife (petitioner no. 3) has provided evidence of her absence from the alleged location of the Rs. 6 lakhs transaction on the date mentioned by the complainant. Similarly, the brother-in-law (petitioner no. 2) has presented evidence of his presence in Mumbai on the date he allegedly received Rs. 4 lakhs in cash. These alibis, supported by documentary evidence such as passport stamps, flight tickets, and call detail records, directly contradict the complainant's narrative and cast serious doubt on the veracity of his allegations.

14. The petitioners pointed out that the complainant admitted in a separate maintenance proceeding that the disputed money was given to the wife as maintenance. This admission directly undermines his claim in the FIR that the same money was a business investment. Such contradictory stances taken by the complainant to suit his convenience demonstrate a lack of good faith and further weaken the foundation of the criminal charges.

15. Regarding the unexplained delay in filing the complaint, he submitted that the alleged transactions occurred in 2017, but the complaint was filed in August 2022, an apparent delay of approximately five years. The charge-sheet offers no satisfactory explanation for this inordinate delay. As established in the *Lalita Kumari* case, such unexplained delays in lodging criminal complaints, especially in the context of matrimonial disputes, necessitate a preliminary inquiry, which was overlooked in this case. This delay raises serious questions about the genuineness of the allegations and suggests they are an afterthought.

16. The charge-sheet alleges offenses under Sections 420, 406, 120B, and 506 IPC. However, the facts presented, even by the prosecution, fail to establish the essential ingredients of these offenses. There is no demonstrable evidence of a dishonest intention from the outset to deceive the complainant or misappropriate his funds. The alleged failure to fulfill a promise of business partnership and returns, at best, constitutes a civil wrong. The allegations of criminal conspiracy and intimidation are also vague and unsupported by concrete evidence.

17. The fact that the learned District Judge granted anticipatory bail to the petitioners after considering the evidence and arguments, observing that the case appeared *prima facie* civil in nature, further supports the petitioners' contention that the criminal proceedings are unwarranted.

18. Petitioners relied on guidelines no. 1, 3, and 7 as laid down in *State of Haryana vs. Bhajan Lal & Ors.* [(1992) Supp (1) SCC 335]. Guideline No. 1 states that where the allegations in the FIR, even if taken at face value, do not *prima facie* constitute any offense, the petitioners may argue that the dispute is essentially civil. Guideline No. 3 provides that where the uncontroverted allegations and the evidence collected do not disclose the commission of any offense, the petitioners may highlight the inconsistencies and their alibis. Guideline No. 7 states that where the criminal proceeding is manifestly attended with *mala fide* and/or is maliciously instituted with an ulterior motive for wreaking vengeance, the petitioners may emphasize the timing of the counter-FIR and the matrimonial discord.

19. He also relied on *Lalita Kumari vs. Government of U.P. & Ors.* [(2014) 2 SCC 1] for the contention that the police should have conducted a preliminary inquiry before registering the FIR, and the failure to do so is a procedural irregularity that supports quashing; *Gian Singh vs. State of Punjab & Anr.* [(2012) 10 SCC 303] for the quashing of criminal proceedings in matrimonial disputes based on compromise; and *Social Action Forum for Manav Adhikar vs. Union of India* [(2018) 10 SCC 443] for the safeguards against the misuse of Section 498A IPC.

20. For the aforementioned reasons, Mr. Bhattacharjee, Learned Advocate for the petitioner, concluded that the instant application to quash the charge-sheet should be allowed, as the continuation of the criminal proceedings would be an abuse of the process of law and serve only to perpetuate the malicious agenda of the complainant. He reiterated that the allegations are a direct consequence of matrimonial discord, lack credible evidence, are contradicted by the complainant's own admissions, and fail to establish the necessary ingredients of the alleged criminal offenses.

21. *Per contra*, Mr. Tarunjyoti Tewari, Learned Counsel for the opposite party no. 2 (Manoj Kumar Megotia), submitted that the charge-sheet, filed after investigation, itself indicates that a *prima facie* case exists against the petitioners under Sections 420 (Cheating), 406 (Criminal Breach of Trust), 120B (Criminal Conspiracy), and 506 (Criminal Intimidation) IPC. This, he argued, negates the petitioners' claim that no offense is made out. He pointed out that the petitioners' non-cooperation with the police during the investigation suggests an attempt to evade scrutiny.

22. He further submitted that based on documentary evidence such as a summary of the money taken by the petitioners, a ledger written by petitioner no. 3 purportedly proving the receipt of the funds, admissions made by the petitioners, and bank statements of Lakshmi Agarwal corroborating the ledger and showing the alleged misappropriation of

Manoj's money through circuitous transactions (money laundering), the charge sheet was rightly submitted against the petitioners.

23. He also pointed out that the allegations are serious and are not merely based on the complaint but are substantiated by tangible evidence like bank statements, WhatsApp conversations, and the handwritten ledger. This evidence, he contended, points towards financial wrongdoing and a refusal to return the outstanding amount. He also asserted that the petitioners provided selective and misleading information to the Court, omitting crucial facts about the counter-cases and the evidence supporting the charges against them.

24. Notably, he highlighted the alleged financial misappropriation evidenced by bank statements and the ledger, the circuitous transactions suggesting money laundering, and the petitioners' non-cooperation with the investigation.

25. In support of the argument that cheating and potential money laundering are serious offenses and that the High Court should be slow to interfere with the investigation or quash criminal proceedings at an early stage, especially when allegations of serious economic offenses are involved, he relied on *Soni Kumari vs. State of Bihar & Ors.* [(2010) 3 SCC 402]. This proposition was reiterated in *Dineshbhai Chandubhai Patel vs. State of Gujarat & Ors.* [(2018) 3 SCC 104], stating that when the allegations *prima facie* disclose the commission of an offense, the High Court should not quash the proceedings, and the charge-sheet is proof of the *prima facie* commission of the offense. In *C.B.I. vs. R.S. Pai & Anr.* [(2002) 5 SCC 82], it was held that the findings of the investigation should not be interfered with by the Court at this stage, as the truthfulness of the allegations can only be tested during the trial. Therefore, quashing the FIR after the investigation is completed and a charge-sheet has been filed would be premature and undermine the principles of justice. The trial is necessary for a fair adjudication of the charges based on the evidence.

26. Mr. Tarunjyoti Tewari, Learned Counsel for the opposite party no. 2, referred to the non-extension of the initial stay granted by the High Court and the submission of the charge-sheet in the interim, to represent the seriousness of the allegations, which necessitate proceeding with the trial, especially when mixed issues of fact and law are involved. He argued that the complaint was lodged with supporting documentary evidence, and the investigation validated the complaint, leading to the charge-sheet. He emphasized that the legitimacy of the charges should be determined by the evidence presented during the trial, and allegations of *mala fide* against the informant alone are not sufficient grounds for quashing the proceedings.

27. Mr. Tarunjyoti Tewari, Learned Counsel for the opposite party no. 2, also relied on *State of Haryana vs. Bhajan Lal & Ors.* [(1992) Supp (1) SCC 335] to show that the facts do disclose a cognizable offense and do not fall within any of the categories warranting quashing. He argued that a *prima facie* offense of cheating, criminal breach of trust, and conspiracy is disclosed by the charge-sheet and supporting evidence. He further discarded the petitioners' claim that the allegations constitute a purely civil dispute, asserting that the evidence of fraudulent inducement and dishonest transactions is sufficient to constitute criminal offenses.

28. Learned Advocate also cited *Kaptan Singh vs. State of U.P. & Ors.* [(2021) 9 SCC 35], precedents emphasizing the limited scope of interference under Section 482 Cr.P.C., especially after a charge sheet has been filed, and the prohibition against conducting a mini-trial at this stage.

29. Regarding the delay in filing the complaint, he attributed it to COVID-19 lockdowns and international travel restrictions, as Manoj was working in Singapore.

30. By citing these precedents, both sides attempted to persuade the Hon'ble High Court that their position aligns with established legal principles regarding the exercise of the High Court's inherent powers under Section 482 Cr.P.C. to quash criminal proceedings. The ultimate decision rested on the Court's assessment of the specific facts and circumstances of the case in light of these legal guidelines.

31. Therefore, Mr. Tarunjyoti Tewari, Learned Counsel for the opposite party no. 2, concluded that the instant application to quash the proceedings lacks merit due to the *prima facie* case established by the charge-sheet and the supporting documentary evidence, and deserved to be dismissed summarily.

32. Mr. Arijit Ganguly, Learned Advocate for the State submitted the same in the tune of Mr. Tarunjyoti Tewari, Learned Advocate for the opposite party no.2.

33. The central question before the High Court was whether this proceeding deserved to be quashed under Section 482 of the Code of Criminal Procedure as prayed for.

34. Having carefully considered the rival submissions, the materials on record, and the relevant legal principles, the Court found that while the principles laid down in *Lalita Kumari* and subsequent cases regarding preliminary inquiry were seemingly not followed, the fact that the police had already conducted an investigation and filed a charge sheet indicated that they found sufficient grounds to proceed with the case. The Court noted that while a preliminary inquiry might be warranted in certain categories of cases, the filing of a charge-sheet after investigation suggests that the police did not find the allegations to be frivolous or warrant closure at that stage.

35. The Hon'ble Supreme Court's judgment in *Lalita Kumari v. Government of Uttar Pradesh* [(2014) 2 SCC 1] primarily deals with the mandatory registration of First Information Reports (FIRs) in cognizable offenses. The Court laid down guidelines for the registration of FIRs and held that registration is mandatory if the information discloses the commission of a cognizable offense. However, the *Lalita Kumari* judgment does not directly address the question of whether the non-observance of its principles would automatically vitiate subsequent proceedings, such as the filing of a charge-sheet and the trial.

36. The primary focus of *Lalita Kumari* is on the initial stage of investigation – the registration of the FIR. Non-compliance with these guidelines, such as a failure to register an FIR despite the disclosure of a cognizable offense, could be challenged at that stage.

37. While the proper registration of an FIR is a crucial first step, the validity of the charge sheet and the trial proceedings that follow generally depend on whether the investigation was fair and proper, and whether sufficient evidence has been collected to prosecute the accused. A charge-sheet filed after an investigation that did not adhere to the principles of *Lalita Kumari* might be questioned, particularly if the lapse in following those principles has led to prejudice to the accused or has impacted the fairness of the investigation.

38. A procedural irregularity or illegality during the investigation, including the non-observance of *Lalita Kumari* guidelines, does not automatically lead to the quashing of the proceedings. The Court would likely consider whether the non-compliance has caused demonstrable prejudice to the accused or has resulted in a miscarriage of justice. If the investigation is found to be fundamentally flawed or biased due to the non-observance of mandatory procedures, it could potentially be a ground for quashing the proceedings. However, this would depend on the specific facts and circumstances of the case.

39. Courts have, in various instances, examined the impact of procedural lapses during the investigation on the subsequent proceedings. The general principle is that if the irregularity has prejudiced the accused or affected the fairness of the trial, the proceedings might be liable to be quashed. It's important to look for specific judgments that have considered the non-observance of *Lalita Kumari* principles in relation to the validity of the charge-sheet and the quashing of proceedings.

40. Thus, while the principles laid down in *Lalita Kumari* are crucial for the initiation of a fair investigation, the mere non-observance of these principles does not automatically vitiate the subsequent charge sheet and trial. The court would likely examine whether the non-compliance has led to prejudice to the accused or a miscarriage of justice. It could be a ground for quashing the proceedings, but this would depend on the specific facts and the impact of the irregularity on the overall fairness of the process.

41. The petitioners raised several factual disputes, particularly regarding their presence at the alleged places of handing over the money. These are matters of evidence that would require scrutiny during the trial. The contradictions highlighted in the complaint and the legal notice are also aspects that the Trial Court would need to consider based on the evidence adduced by both parties. This Court, in exercise of its revisional jurisdiction, should be loath to delve into disputed questions of fact, especially when a charge-sheet has been filed.

42. While the genesis of the dispute involves a loan transaction, the allegations in the FIR go beyond a mere breach of contract. The complainant has alleged inducement, false promises of partnership and subsequent misappropriation of the funds through circuitous transactions. The ingredients of cheating (Section 420 IPC) involve dishonest inducement and deception leading to the delivery of property. The allegations in the FIR, if proven, could potentially constitute the offense of cheating and criminal breach of trust (Section 406 IPC). The line between a civil wrong and a criminal offense often blurs in financial transactions, and it is for the Trial Court to determine, based on the evidence, whether the ingredients of the alleged criminal offenses are established. Reliance on *Hridaya Ranjan Prasad Verma* is pertinent, but its application depends on the specific facts proven during trial.

43. The fact that petitioner no. 3 has filed a case against the opposite party and his family is a relevant factor. However, the present FIR was lodged subsequently. The Trial Court would need to assess the veracity of both sets of allegations independently based on the evidence presented. The existence of matrimonial discord and related litigation does not automatically lead to the quashing of a criminal case if the allegations disclose the commission of a criminal offense.

44. The filing of a charge-sheet by the police after investigation is a significant factor. It indicates that the investigating agency, upon inquiry, found sufficient material to form an opinion that a *prima facie* case exists against the accused persons for the alleged offenses. This Court should be hesitant to quash a case at this stage unless there are compelling reasons to believe that no offense whatsoever is disclosed or that the prosecution is manifestly *mala fide* or instituted with an ulterior motive.

45. The learned advocate for the opposite party has rightly pointed out the petitioners' failure to offer any explanation for the alleged circuitous transactions and the handwritten ledger maintained by petitioner no. 3, which purportedly supports the complainant's allegations of misappropriation. These are crucial pieces of evidence that require consideration by the trial court.

46. The alleged admission by the opposite party in an affidavit before the District Court, Gurugram, that the disputed money was maintenance money is a piece of evidence that the petitioners can rely upon during the trial. However, its interpretation and relevance to the present criminal case would be a matter for the Trial Court to determine based on the context in which the statement was made and the other evidence on record.

47. Upon a comprehensive consideration of the facts, submissions, and the legal principles, this Court finds that there are disputed questions of fact that require adjudication during trial. The allegations in the FIR, coupled with the investigation conducted by the police leading to the filing of a charge-sheet, *prima facie* disclose the commission of cognizable offenses. The arguments raised by the petitioners, while potentially valid as defences during trial, do not present such compelling grounds as to warrant the quashing of the FIR at this stage. The existence of matrimonial disputes and counter-allegations does not, in itself, vitiate the criminal proceedings if the allegations disclose a criminal offense. The petitioners will have ample opportunity to present their defence and cross-examine the witnesses during the trial.

48. For the reasons stated above, this criminal revision petition, CRR 719 of 2023, is hereby dismissed.

49. The Learned Chief Judicial Magistrate, Paschim Bardhaman, Asansol, is directed to proceed with the trial of GR Case No. 2750/2022 in accordance with law.

50. There shall be no order as to costs.

51. Interim order/orders, if any, stands vacated

52. Urgent Photostat certified copy of this judgment, if applied for, be given to the parties, as expeditiously as possible, upon compliance with the necessary formalities in this regard.

(Uday Kumar, J.)