

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SDE

Present:-

THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)

CRR NO.825 of 2022

**SURESH KUMAR SARAWAGI & ANR.
VS.
THE STATE OF WEST BENGAL & ANR.**

For the Petitioner(s) : Ms. Jayeeta Majumder, Adv.

**For the State : Mrs. Sonali Das, Adv.,
Mrs. Manasi Roy, Adv.**

Last heard on : 23-12-2025.

Judgement on : 23-12-2025.

Uploaded on : 24-12-2025.

CHAITALI CHATTERJEE (DAS), J. :-

1. It is submitted by learned advocate appearing on behalf of the petitioners that during pendency of this revisional application, a decree has been passed against the Opposite Party no.2 and, therefore, it is necessary that all those documents may be incorporated by filing supplementary affidavit. Accordingly, it is prayed that liberty be given for accepting such supplementary affidavit. In the order dated December 09, 2025, liberty was not given to the petitioners as no such case was made out before this Court and no one appeared to represent the Opposite Parties.

2. Today, the learned advocates appeared on behalf of the State and received advance copy of the said supplementary affidavit. Therefore, liberty is given to the petitioners to file the supplementary affidavit. Let the same be taken on record.

3. Affidavit-of-Service filed in Court today is taken on record. From the Affidavit-of-Service, it appears that the intimation was given on December 17, 2025. In spite of service, none appears to represent the Opposite Party no.2.

4. This revisional application was filed by the present petitioners being the parents in law for quashing of the criminal proceeding pending before the learned Chief Judicial Magistrate, Howrah, in connection with an FIR dated July 25, 2021 under Sections 498A/406/323/307 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act. During pendency of this proceeding, a matrimonial suit was filed as there was an amicable settlement between the parties on January 10, 2023 under Section 13(b) of the Hindu Marriage Act and vide order dated July 17, 2023, the said matrimonial proceeding was dismissed as the Opposite Party no.2 expressed her desire to continue with the matrimonial tie further. However, she did not withdraw the complaint lodged earlier against the present petitioners. Subsequently, again in the year 2024, the second matrimonial suit was filed with the same terms and conditions whereby she undertook to withdraw all the complaints lodged by her against the husband and in-laws. A declaration also was given by her to the Officer-in-Charge, Howrah Police

Station in connection with the pending Police Station Case No.161 of 2021 dated July 25, 21 that she did not want to receive her stridhan articles from the matrimonial house. She also could not produce any medical certificate and hospital papers regarding her medical treatment before the Officer-in-Charge on asking.

5. Learned advocate representing the petitioners has drawn attention of this Court to the declaration given by the husband long back in the year 2017 before the complaint was lodged that while the defacto complainant left the matrimonial home, his father handed over the ornaments, cash, articles which he got from the father of the complainant at the time of marriage and, accordingly, the husband and the defacto complainant had no claim regarding those ornaments, articles, cash received from their parents and the husband also handed over all those articles to the wife, that is, the defacto complainant herein.

6. It is further submitted by the learned advocate that in connection with the second matrimonial suit being Matrimonial Suit No.1219 of 2024, an order was passed on April 08, 2024 whereby the marriage between the parties was dissolved by a decree of divorce on mutual consent. In terms of the said decree, an undertaking was given by the defacto complainant to withdraw the complaint lodged by her, but the same was not complied with and as a result, the complaint remained pending and hence, the present petitioners, have come before this Court for passing an order for quashing of such criminal procedure.

7. Learned advocate appearing for the State has not raised any objection regarding the factum of mutual divorce.

8. The learned Advocate representing the petitioners has relied upon a decision of the Hon'ble Supreme Court in in the case of **Shlok Bhardwaj Vs. Runika Bhardwaj & Ors¹**. and in the case of **Rajib Kumar Sharma & Anr. Vs. The State of Uttar Pradesh & Anr²**.

9. On perusal of the said decisions, it is found that the Hon'ble Apex Court while considering a settlement deed which was executed between the parties in a matrimonial proceeding which contains the condition that all the cases related to their marriage shall be withdrawn unconditionally, allowed the prayer to quash the proceeding. It was further held that since the parties have settled and resolved their disputes and consciously chose to unconditionally drop all proceedings related to their marriage including criminal action, for the interest of justice, the said proceeding should not be continued and in exercise of power under Article 142 of the Constitution of India, set aside the said judgment of the High Court whereby the prayer for quashing was refused.

10. In the case of **Shlok Bhardwaj (supra)**, both the parties filed the divorce petition and the parties agreed to a decree of divorce on mutual consent. It was observed in that case that once the matter was settled between the parties and the said settlement was given effect to in the form of

¹ Criminal Appeal No.741 of 2009

² Criminal Appeal No.1599 of 2019

divorce by mutual consent, no further dispute survived between the parties, though it was not so expressly recorded in the order of the Trial Court. No liberty was reserved by the wife to continue further proceedings against the husband. Thus, the wife was, after settling the matter, estopped from continuing the proceedings.

11. In the instant case also, it can be seen that the complaint was lodged before the concerned Police Station in the year 2021 under section 498A/406/34 I.P.C and subsequently, the decree of mutual divorce was passed by the court in the year 2025. No specific terms have been recorded by the learned court while passing the decree of divorce. However, no condition was also found from such order that the defacto complainant/wife retained her right to criminal complaint lodged by her against her in-laws. Therefore, once the decree of divorce has been passed on mutual consent and after a settlement has been arrived at between the parties, that too, for the second time in the second matrimonial proceeding, this Court is also of the view that there remains nothing for adjudication and if the proceeding pending before the learned trial court is allowed to be continued, it would be a gross abuse of the process of law.

12. Therefore, this Court in exercise of power under Section 482 of the Code of Criminal Procedure is inclined to allow the prayer made in this revisional application by the petitioners being the parents-in-law and, accordingly, the proceeding pending before the learned court of Magistrate is hereby quashed.

13. In view of this, the revisional application stands allowed.

14. All parties shall act on the server copies of this judgment duly downloaded from the official *website* of this Court.

15. Urgent Photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

[CHAITALI CHATTERJEE (DAS), J.]

