

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

The Hon'ble **JUSTICE SUVRA GHOSH**

C.R.R. 792 of 2024

**Shri Priyanku Biswas
v/s.
The State of West Bengal & Anr.**

For the Petitioner: Mr. Pradyut Saha, Adv.,
Mr. S. Rawat, Adv.,

For the Private Opposite
Party no. 2: Mr. Bratin Kumar Das, Adv.,
Mr. Joydeep Das, Adv.

For the State: Md. Anwar Hossain, Adv.,
Mr. Nirupam Dhali, Adv.

Judgment delivered on: 28-01-2025

SUVRA GHOSH, J. :-

1. The petitioner who is the husband of the private opposite party has sought quashing of the proceedings of Noapara P.S. Case no. 203 of 2022 dated 27th June, 2022 and charge sheet submitted therein under sections 498A/406/34 of the Indian Penal Code against the petitioner and four others.
2. The defacto complainant/private opposite party lodged complaint against the members of her matrimonial home including the petitioner to the effect that she suffered cruelty in the hands of the petitioner and others in her matrimonial home soon after her marriage.

3. Learned counsel for the petitioner has submitted that no prima facie case has been made out against the petitioner either in the FIR or during investigation. No document has been seized to substantiate the allegations made in the FIR. The petitioner was married to the private opposite party on 13th March, 2022 and he left for Switzerland for his employment on 2nd April, 2022. Therefore he was not present in his house when the incidents as alleged occurred.
4. Learned counsel has placed reliance on the authority in Taramani Parakh v/s. State of Madhya Pradesh and Others reported in (2015) 11 Supreme Court Cases 260 in support of his contention.
5. Learned counsel for the State has referred to the case diary and has opposed the application.
6. Learned counsel for the private opposite party has also raised vehement objection to the prayer of the petitioner and has submitted that there is sufficient material to suggest a prima facie case against the petitioner and the Court should not hold a mini trial before commencement of evidence before the trial Court, in quashing the charge sheet at the threshold.
7. Learned counsel has placed reliance on the authority in Central Bureau of Investigation v/s. Aryan Singh reported in 2023 Supreme Court Cases OnLine SC 379 in support of his contention.
8. I have considered the rival contention of the parties and material on record.
9. I propose to commence my observation with the law laid down by the Hon'ble Supreme Court in the authority in Central Bureau of Investigation (supra) wherein the Hon'ble Court has held that while

exercising powers under section 482 of the Code of Criminal Procedure for quashing a criminal proceeding, the Court is not required to conduct a mini trial. This is not a stage where the prosecution/investigating agency is required to prove the charges. The charges are required to be proved during trial on the basis of evidence led by the prosecution. While exercising powers under section 482, the High Court is required to consider “whether any sufficient material is available to proceed further against the accused for which the accused is required to be tried or not”.

10. In the case in hand, it is not in dispute that the petitioner was married to the private opposite party on 13th March, 2022 and left for Switzerland for his employment on 2nd April, 2022. The entire evidence of the case comprises statements of the private opposite party, her parents and a relative. No further material has been collected by the investigating agency to make out a prima facie case against the petitioner.

11. Section 498A of the Indian Penal Code corresponding to section 85 of the Bharatiya Nyaya Sanhita defines cruelty as:-

- a) “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.”

12. A bare perusal of the FIR demonstrates that allegations made against the petitioner are general and omnibus. Specific details of the alleged cruelty have not been mentioned therein. There is no independent corroboration of the averments of the FIR in the material collected during investigation.
13. It is pertinent to refer to the authority in Sharif Ahmed and Another v/s. State of Uttar Pradesh and Another reported in 2024 Supreme Court Cases OnLine SC 726 wherein the Hon'ble Supreme Court has observed that the investigating officer must make clear and complete entries of all columns in the charge sheet so that the Court can clearly understand which crime has been committed by which accused and what is the material evidence available on the file. Statements under section 161 of the Code and related documents have to be enclosed with the list of witnesses. The role played by the accused in the crime should be separately and clearly mentioned in the charge sheet for each of the accused persons.
14. In the present case, there is no reflection in the charge sheet as to the specific overt act attributable to the petitioner and as to how the investigating officer reached the conclusion that a prima facie case was made out against the petitioner.
15. In the said backdrop, this Court is inclined to hold that this is a fit case where inherent powers under section 482 of the Code should be exercised to quash the criminal proceedings since allowing the proceedings to continue shall be an abuse of the process of the Court.
16. Accordingly, the revisional application being C.R.R. 792 of 2024 is allowed.

17. The proceedings in connection with Noapara P.S. Case no. 203 of 2023 dated 27th June, 2022 and charge sheet no. 318 dated 31st October, 2022 submitted therein be quashed.
18. The petitioner be set at liberty at once and discharged from his bail bonds.
19. Urgent certified website copies of this judgment, if applied for, be supplied to the parties expeditiously on compliance with the usual formalities.

(Suvra Ghosh, J)