

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

The Hon'ble **JUSTICE SUVRA GHOSH**

**C.R.R. 967 of 2024
(CRAN 1 of 2024)**

**Amaresh Chowdhury
v/s.
The State of West Bengal & Ors.**

For the Petitioner:	Mr. Kushal Kr. Mukherjee, Adv., Ms. Pranidhi Singh, Adv., Ms. Asrukana Maji, Adv.,
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For the Opposite Party/Wife:	Mr. Prasenjit Mukherjee, Adv., Ms. Sima Ghosh, Adv.,
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Judgment delivered on:	02.04.2025
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SUVRA GHOSH, J. :-

1. The revisional application assails the judgment/order passed by the learned Additional District and Sessions Judge, 1st Court, Paschim Medinipur on 13th December, 2023 in Criminal Appeal 54 of 2023. By the said judgment, the learned Judge has affirmed the order passed by the learned Chief Judicial Magistrate, Paschim Medinipur (in charge) in Misc. Case. No. 190 of 2023 on 19th August, 2023. By the order dated 19th August, 2023 the learned Chief Judicial Magistrate has registered the petition filed by the opposite party under section 12 of the Protection of Women from Domestic Violence Act, 2005 (in short the PWDV Act) as miscellaneous case.

2. Learned counsel for the petitioner has sought dismissal of the proceeding under the PWDV Act solely on the ground of material suppression of facts by the opposite party.
3. The opposite party lodged a complaint against the petitioner who is her husband and the family members of the petitioner which was registered as Debra P.S. case no. 611 of 2022 dated 29th November, 2022 and charge sheet was submitted against the petitioner and two others under section 498A/323/506/34 of the Indian Penal Code. The case was numbered as G.R. Case no. 3998 of 2022. By a judgment delivered on 15th May, 2023, the learned Chief Judicial Magistrate, 3rd Court, Paschim Medinipur acquitted the petitioner and other accused persons from the charges upon recording that the couple adduced evidence before the learned Trial Court to the effect the dispute between them was settled and soon after lodging the complaint, the wife (opposite party herein) started residing with her husband and in laws and had no allegation against the accused persons. On the next day, i.e., on 16th May, 2023 the opposite party filed an application under the PWDV Act before the Protection Officer, Social Welfare Department, Paschim Medinipur alleging domestic violence. An application under section 12 of the Act was filed before the learned Magistrate.
4. Learned counsel for the petitioner has submitted that in the said application, the opposite party has suppressed the fact that the petitioner was acquitted in the criminal case filed by her earlier. In fact, in the application, the opposite party has stated that she left her matrimonial home on 17th April, 2023 and was staying in her father's house since

then. She has also stated that her husband was creating pressure on her and her parents to withdraw the criminal case lodged by her.

5. Per contra, learned counsel for the opposite party has submitted that in her supplementary affidavit filed before the learned Trial Court, she has stated that she was made to adduce evidence before the learned Magistrate in the criminal case by practising fraud upon her. She was told by her husband and other members of her matrimonial family that in the event she adduced evidence before the learned Magistrate to facilitate their acquittal, she would be taken back to her matrimonial home with the child. Despite being mercilessly assaulted by her husband and driven out of her matrimonial home on 28th November, 2022, she was made to depose before the learned Magistrate that there was only a hot altercation on that date. After pronouncement of the judgment of acquittal by the learned Magistrate, the petitioner and his family members refused to take her back to her matrimonial home for which she approached the Protection Officer on the next day, i.e., on 16th May, 2023 and filed the case under the PWDV Act.
6. Learned counsel for the opposite party has placed reliance on the authorities in *Badshah v/s. Urmila Badshah Godse* and Another reported in (2014) 1 Supreme Court Cases, 188, *Jayasri Das v/s. Somnath Das* reported in (2013) 2 C Cr LR (Cal) 325 and a judgment delivered by a coordinate Bench of this Court in CRR No. 2981 of 2018 on 22nd January, 2019 in support of his contention.
7. The opposite party lodged FIR against the petitioner and his family members which was registered as G.R. Case no. 3998 of 2022. The

accused persons including the petitioner was acquitted from the case by a judgment delivered on 15th May, 2023 primarily on the anvil of evidence led by the opposite party that she had been residing with her husband and in laws soon after lodging the complaint and had no allegation against them. On the contrary, she stated before the Protection Officer on the very next day, i.e., on 16th May, 2023 as well as in her application under the PWDV Act, that she was compelled to leave her matrimonial home on 17th April, 2023. She has also stated that her husband was creating pressure upon her and her parents to withdraw the criminal case. Fact remains that the criminal case stood disposed of on that date and the petitioner and other accused were acquitted from the charges. Therefore the opposite party suppressed the fact of acquittal of the petitioner in the criminal case and also that she was residing in her matrimonial home soon after the FIR was lodged.

8. It is trite law that if a party does not disclose full facts or suppresses relevant material or is otherwise guilty of misleading the Court, the Court may dismiss the action without adjudicating the matter. At the same time, fact suppressed should be material and relevant to the decision of the case wherein it has been suppressed. The criteria is suppression of material facts and not suppression of facts alone.
9. Whether the judgment of acquittal was obtained by practising fraud upon the opposite party or whether the opposite party has taken any steps with regard to such fraud is not an issue before this Court for consideration in the present case. What falls for consideration is whether there has been suppression of material facts by the opposite party in filing the

application under the PWDV Act and if so, whether such suppression shall result in dismissal of the application.

10. It is not in dispute that the scope of a complaint under section 498A of the Indian Penal Code and an application under section 12 of the PWDV Act are quite different and an application under the PWDV Act cannot be discarded merely on the ground that similar or identical facts have been pleaded in the earlier proceeding under section 498A of the Indian Penal Code wherein the petitioner/husband has been acquitted. The opposite party claims that the petitioner coerced her to adduce evidence before the learned Magistrate in the criminal case on an assurance of accepting her with the child. Acquittal of the petitioner in the criminal case can have no bearing on the case under the PWDV Act and non-disclosure of such acquittal in the subsequent case, though may be termed as suppression, cannot be said to be suppression of material facts since such suppression shall not affect the decision of the subsequent case. Failure of the opposite party to disclose the fact as alleged by the petitioner is not fatal to the case under the PWDV Act and cannot be construed as a ground for dismissal of the application. The application ought to be dealt with on merits by the learned Trial Court in order to decide whether the opposite party is entitled to the relief sought.

11. In view of the discussion made above, this Court is not inclined to dismiss the application under the PWDV Act filed by the opposite party in limine solely on the ground of suppression of material facts since such suppression shall not influence the decision of the Court in the said case.

Dismissal of the case under the PWDV Act at its initiation shall leave the opposite party without remedy.

12. In the result, the revisional application being CRR 967 of 2024 is dismissed.
13. The connected application being CRAN 1 of 2024 is disposed of.
14. The judgment impugned dated 13th December, 2023 passed by the learned Additional District and Sessions Judge, 1st Court, Paschim Medinipur in Criminal Appeal no. 54 of 2023 is affirmed.
15. 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)