

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

CRR 1122 of 2024

Sumit Roy

Vs.

The State of West Bengal & Anr.

Before: The Hon'ble Justice Apurba Sinha Ray

For the Petitioner : Mr. Imtiaz Ahmed, Adv.
Ms. Ghazala Firdaus, Adv.
Mr. Sk. Saidullah, Adv.
Mr. Mithun Mondal, Adv.
Md. Arsalan, Adv.
Mr. Julfikar Alam, Adv.
Ms. Zannat Haque, Adv.

For the State : Mr. Debashish Roy, Ld. PP
Mr. Arijit Ganguly, Adv.
Ms. Sreemoyi Roy, Adv.
Mrs. Debjani Sahu, Adv.

CAV On : 14.07.2025

Judgment On : 29.07.2025

Apurba Sinha Ray, J. :-

1. The instant revisional application has been filed by the appellant for quashing of the proceeding in connection with GR Case No. 1569 of 2003 arising out of Madhyamgram P.S. Case No. 381 of 2023 dated 16.06.2023

under Section 498A of the Indian Penal Code and all orders passed in connection with the aforesaid proceedings pending before the Learned Additional Chief Judicial Magistrate at Barasat, North 24 Parganas.

2. The learned counsel for the petitioner Mr. Ahmed has submitted that the petitioner married the respondent no. 2, eighteen years ago but without any rhyme and reason the relevant police case was filed by the respondent no. 2 against the petitioner and her mother under section 498A of Indian Penal Code. It is a settled principle of law that if the FIR does not disclose any cognizable offence, the said FIR should be quashed. In this case, the FIR does not disclose any cognizable offence allegedly committed by the petitioner and his mother. Therefore, in view of the decision of the Hon'ble Apex Court the relevant proceedings pending before the Learned Additional Chief Judicial Magistrate should be quashed. The learned counsel has submitted two decisions in this regard **Kashinath Bhar & Ors. Vs. The State of West Bengal, (CRA no. 131 of 2006, decided on 12.06.2009)** **Tarunjeet Singh Bhogal Vs. State of Himachal Pradesh and Ors. (Cr. MMO No. 84 of 2024 with Cr. MMO No. 798 of 2023, decided on 14.06.2024)**

3. The learned counsel for the State Mr. Ganguly has opposed the prayer for quashing the relevant proceeding as aforesaid on the ground that after investigation, the concerned I.O. has submitted chargesheet against petitioner and his mother under Section 498A of IPC and the charge is to be framed against the petitioner and her mother within a very short span of

time. It is also contended by the learned counsel for the State that there are materials in the case diary showing that the petitioner and his mother inflicted physical and mental torture upon the opposite party no. 2/wife. The witnesses whose statements were recorded under Section 161 of Cr.P.C. have also disclosed that the petitioner does not take any responsibility of his wife/opposite party no.2 and two children.

4. The learned counsel Mr. Ahmed, appearing for the petitioner has submitted that the term 'cruelty' as found in section 498A of IPC should be 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 of the women or such harassment of the women was only to make any unlawful demand of property etc. Mr. Ahmed has also drawn the attention of this court to the contents of the FIR and has submitted that ingredients of Section 498A of IPC are not available in the alleged commission of offence.

5. After considering the rival contention of the parties, I find that the petitioner was unable to serve copy of the instant application upon the opposite party no. 2/wife. The notice issued from the side of the petitioner upon the opposite party no.2 returned without service. This court directed the O.C. Duttapukur P.S. to issue notice upon the respondent no. 2/wife of the petitioner but it is returned with the report that at present the respondent no. 2 is not residing in the given address.

6. Though I have considered the rival contentions of the parties and found that there is no allegation of dowry demand from the part of the petitioner as alleged in the FIR but there are allegations of physical assault and neglect. It is now settled that an FIR is not an encyclopedia of events. It is also settled in view of **State of Haryana & Ors. Vs. Bhajan Lal & ors. reported in 1992 Supp (1) SCC 335** and other similar decisions of the Apex Court that unless the FIR discloses a cognizable case the same is liable to be quashed. When the allegations are omnibus the High Court can also quash the relevant proceedings. The question is whether or not negligence for not taking care of one's wife or children or gambling can be defined as cognizable offence, or whether or not such allegations come under the definition of 'cruelty' as mentioned in Section 498A of IPC.

7. It is true that the court should not conduct a mini trial in entertaining a petition under Section 482 of Cr.P.C. but should confine its discretion only when it is found that continuation of such proceeding would be a sheer abuse of process of court. Though I find that the petitioner has some important points in support of his contention but it appears that the petitioner does not know the whereabouts of his wife and children which is certainly an evidence to show, prima facie, that petitioner in all probability is not taking care of his wife and children. Had he knew the whereabouts of his wife and children, then, what prevented him to serve notices upon the respondent no. 2. Either he does not really know the whereabouts of his wife or children or he is not at all diligent to serve notices upon the respondent no. 2 for the reasons best known to him. As the exercise of jurisdiction of

this court under Section 482 Cr.P.C. is on the basis of discretion only which ought to have been exercised with reasons, I do not find it proper to quash the relevant proceedings under Section 482 of Cr.P.C. in the absence of the respondent no. 2. Truly, the petitioner has certain points in his favour, and accordingly, I dispose of the instant criminal revision application under Section 482 of Cr.P.C. after giving liberty to the petitioner to agitate relevant points before the learned Trial Court at the time of framing charge, and it is expected that the learned Trial Court shall consider such points, if raised, at the time of framing of charge and pass appropriate order in accordance with law.

8. Accordingly, CRR 1122 of 2024 is disposed of, No order as to costs. The duplicate case diary be returned. The interim order, if any, stands vacated.

9. Urgent photostat certified copies of this Judgment, if applied for, be supplied to the parties on compliance of all necessary formalities.

(APURBA SINHA RAY, J.)