

HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

Present:

THE HON'BLE JUSTICE JAY SENGUPTA

CRR 1513 OF 2025
Abhijit Kundu & Another
versus
The State of West Bengal and Anr.

For the petitioners	Mr. Jayanta Narayan Chatterjee Mr. Supreem Naskar Ms. Jayashree Patra
For the State	Mr. Koushik Kundu Ms. Jonaki Saha
For the O.P. No. 2	Mr. Bhaskar Chakraborty Mr. Subrata Mukherjee
Lastly heard	21.04.2025
Judgment on	21.04.2025

JAY SENGUPTA, J:

1. This is an application for quashing of the proceeding in which charge-sheet was submitted under Sections 498A, 323 and 325 of the Penal Code.

2. Learned senior counsel appearing on behalf of the petitioners submits as follows. The petitioner No. 1 is the husband of the defacto-complainant/opposite party No. 2 and the petitioner No. 2 is his business associate. The marriage between the couple took place in December, 2021. The couple had a male child. In September, 2023 a mutual divorce was agreed upon. An application for mutual divorce was filed in December, 2023. There the opposite party No. 2 did not make any claim for money. Thereafter, the opposite party demanded money, which was refused. This promoted the opposite party to lodge the present FIR on 22.02.2024. No *prima facie* case is made out. Section 498A cannot apply against a business associate of the petitioner/husband as she was not a family member. There is no ingredient of Section 325 either. The FIR did not even disclose about the earlier mutual divorce agreed upon.
3. Learned counsel appearing on behalf of the private opposite party denies the allegations and submits as follows. The petitioner No. 2 is the paramour of the husband/petitioner No.1. The petitioner No. 1 inflicted torture, demanded dowry and kept on having an illicit relation with the petitioner No. 2. When things became unbearable, the opposite party No. 2 was forced to agree to a mutual divorce. But, the issue of payment of money was kept outside its ambit and was to be done out of Court. In any event, no final decree has been passed on such application for mutual divorce, which would bind

the private opposite party. The incident that happened on 22.02.2024 did not have any bearing on the earlier filing of an application for mutual divorce. That is why the same was not referred to in the FIR. However, the FIR is not an encyclopaedia of all ingredients and connected issues, therefore, could have been unearthed during investigation. Thus, this cannot be termed as material suppression. The two petitioners clearly assaulted the victim/opposite party No. 2. She had to be treated in a Government hospital. The allegations levelled against the petitioners are clearly made out.

4. Learned counsel appearing on behalf of the State relies on the case diary, opposes the prayer for quashing and submits as follows. The version of the victim given in the FIR as well as before the treating doctor and the statements of witnesses clearly make out a *prima facie* case. Section 498A of the Penal Code is clearly made out against the petitioner No. 1 and the other charges are made out against both the accused.
5. It appears that a *prima facie* case is made out under Section 498A of the Penal Code against the husband.
6. As the petitioner No. 2 is not a relative of the petitioner no. 1, no charge under Section 498A of the Penal Code can be attributed to her.
7. So far as the charge under Section 323 is concerned, there is an injury certificate and the version given by the wife before the doctor

and in the FIR make out a *prima facie* case under Section 323 of the Penal Code.

8. However, it does not appear from the injury certificate that any grievous injury was caused.
9. Accordingly, the charge under Section 325 is liable to be quashed against both the accused and the charge in respect of Section 498A ought to be set aside so far as the petitioner No. 2 is concerned.
10. The other points taken up by the petitioners are all questions of facts, which can best be decided by the Trial Court.
11. In view of the above discussions, the impugned proceedings are quashed so far as the charge under Section 325 of the Penal Code is concerned and so far as the charge under Section 498A of the Penal Code as against the petitioner No. 2 is concerned. However, the prayer for quashing in respect of rest of the charges is rejected. The revisional application is, accordingly, disposed of.
12. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(Jay Sengupta, J)

