

04 04.2025
Item. 8
Ct. No. 32
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CRR 1258 of 2018

In the matter of: Aditya Ghosh

Petitioner.

Mr. Dhananjay Banerjee
Mr. Praloy Hazra

.... for the petitioner.

Mr. Ranabir Roy Chowdhury
Mr. Mainak Gupta

.... for the State.

I.O. is personally present along with compliance report and Case Diary.

Let compliance report be taken on record. His personal appearance stands noted and dispensed with.

None appears on behalf of the opposite party no. 2 in spite of good service. No accommodation has been prayed for.

By filing this Criminal Revisional application under Section 482 of the Code of Criminal Procedure, 1973, the petitioner being the brother-in-law of the de-facto complainant prays for quashing of proceeding being CGR Case No. 5408 of 2013 arising out of Lake Police Station Case No. 550 of 2013, dated 20.10.2013 under Sections 498A/406/34 of the Indian Penal Code, 1860 pending before the Court of Learned 4th Judicial Magistrate, Alipore, South-24-parganas.

Subsequently, Charge sheet has been submitted being charge sheet no. 344 of 2014 dated 31.12.2014 arising out of aforesaid Police Station case number against the Petitioner and other accused.

The sum and substance of the case is that opposite party no. 2 lodged a complaint against petitioner along with others for commission of an offence punishable under Sections 498A/406/34 of the Indian Penal Code, 1860 alleging, *inter alia*, therein that on 26th January, 2011, she got married with Shri Arjun Ghose as per Hindu Rites and Customs. The said marriage was duly registered as per Special Marriage Act, 1954.

At the time of marriage, her parents gave sufficient gold ornaments along with other demanded materials, like furniture and fixture and cash of Rs. One Lakh Fifty Thousand which were handed over to the husband, Arjun Ghose. After the marriage, her husband was staying at rented accommodation at Baguihati, however, when she started residing her matrimonial home, her mother-in-law started ill behaviour towards her, inflicted mental and physical torture and also assaulted her, despite the said facts, her husband was kept silent and also provoked her mother-in-law to do so. She lodged complaint against the present petitioner that he tried to abuse and insulted her from all corners.

In view of the said written complaint, an FIR was registered being Lake Police Station Case No. 550 of 2013, dated 20.10.2013 under Sections 498A/406/34 of the Indian Penal Code, 1860 against the accused persons including the petitioner.

After conclusion of the investigation, charge sheet was submitted against all the accused persons including

present petitioner under Sections 498A/406/34 of the Indian Penal Code, 1860.

It is submitted that after registration of FIR, he surrendered before the Learned Trial Court and was granted bail. It is further contended that petitioner has no role to play in any offence as alleged by the de-facto complainant. He has been falsely implicated into this case and all the allegation against the present petitioner is out and out false and fabricated. No specific role has been attributed against the petitioner whereas it was alleged that he tried to abuse and insulted her from all corners. It will no stretch of imagination constitute offence punishable under Sections 498A/406/34 of the Indian Penal Code, 1860.

Therefore, this case may be quashed for securing ends of justice and to prevent abuse of process of law against him.

On the other hand, learned Advocate appearing on behalf of the State produced Case Diary and candidly submitted that during investigation, statement of the witnesses was recorded under Section 161 of the Criminal Procedure Code. It appears that he was only 'disturbing her' apart from that nothing was revealed during investigation against the present petitioner.

Upon carefully perusal of the Case Diary and materials available in the report, I find that the allegation was totally vague and common and general in nature. Whatever allegation made in the FIR is only regarding his attempt to abuse her which cannot be said to be committed offence under the Indian Penal Code.

In view of the facts, this Court finds that there are no materials against the present petitioner in the Case Diary even for the prima facie case.

We should not forget at this moment the well-settled law declared by the Hon'ble Supreme Court in the case of **State of Haryana & Ors. vs. Bhajanlal & Ors reported in AIR 1992 SUPREME COURT 604** which has laid down the basic points for consideration pursuant to which a complaint may be entertained in accordance with law before a Court of law. The Court has narrated down as to when the extraordinary power of this Court under Section 482 of the Code of Criminal Procedure may be espoused. Relevant portion thereof may beneficially be quoted herein below: -

"102. This Court in the backdrop of interpretation of various relevant provisions of CrPC under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 of the Constitution of India or the inherent powers under Section 482 CrPC gave the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of the court or otherwise to secure the ends of justice. Thus, this Court made it clear that it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list to myriad kinds of cases wherein such power should be exercised:

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal

proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

In the light of above discussions made by this Court and in view of observation made by the Hon'ble Supreme Court in the above cited judgment, this Court fully satisfies that this case falls in the Categories mentioned in (1), (5) and (7) above.

In view of the facts, if such proceeding is allowed to continue it would be a sheer abuse of process of law against the petitioner herein.

Accordingly, **CRR 1258 of 2018** is, thus, allowed. Connected applications, if any, are also, thus, disposed of.

Proceeding being CGR case no. 5048 of 2013, arising out of Lake Police Station Case No. 550 of 2013, dated 20.10.2013 under Sections 498A/406/34 of the Indian Penal Code, 1860, pending before the Court of Learned 4th Judicial Magistrate, Alipore, South-24-parganas is quashed, insofar as the petitioner is concerned.

Case Diary be returned to the learned Advocate for the State.

Let a copy of this Order be sent to the Learned Trial Court for information.

Interim order, if any, stands vacated.

Parties will act on the server copies of this Judgment uploaded from the official website of this Court.

Urgent photostat certified copy of this judgment, if applied for, is to be given as expeditiously to the parties on compliance of all legal formalities.

(Ajay Kumar Gupta, J.)