

March 06, 2025

34 ARDR

CRR 1415 of 2024

Indrajit Roy & anr.

Vs.

The State of West Bengal & anr.

Adv. Debnath Ganguly,
Adv. Brotindro Mullick,
Adv. Ankita halder,
Adv. Supriyo Dutta,
Adv. Chiranjit Pal,

... for the Petitioners.

Adv. Saibal Bapuli,
Adv. Aslam Parvez,

...for the op. no.2.

The petitioner seeks quashing of GR 6517 of 2021 pending before the learned Additional Chief Judicial Magistrate, Barrackpore, North 24 Parganas primarily on the ground that the 2nd petitioner and the private opposite party are cousins and allegation under Section 498A of the Indian Penal Code does not lie. Also, the evidence collected during investigation does not suggest any *prima facie* material under Sections 323/506 of the Code. The witnesses examined by the Investigating officer are all hearsay. No injury report has been collected by the Investigating officer.

Learned counsel for the State produces the Case Diary and opposes the prayer.

The private opposite party is not represented.

It appears that charge sheet has been submitted against the petitioners under Sections 498A/323/506/34 of the Indian Penal Code. The first petitioner Abhijit Roy @ Avijit Roy who is the father of the 2nd petitioner and the uncle of the private opposite party has expired during pendency of the revisional application and his name has been expunged from the cause title of the application.

Since the victim/defacto complainant is not a woman, allegation under Section 498A of the Indian Penal Code does not lie against the petitioners who do not fall within the parameters laid down under the said provision of law.

It appears from the Case Diary that the main thrust of the allegation under Section 323 of the Code is against the 1st petitioner who has expired.

True, jurisdiction under Section 482 of the Code of Criminal Procedure ought to be exercised with extreme care, caution and circumspection and should not be used to stifle or axe down a legitimate prosecution. The Hon'ble Supreme Court, in the authority in State of Haryana and others vs. Ch. Bhajan Lal and others reported in 1992 SCC (Cri) 426, has observed that 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, inherent power under Section 482 of the Code should be exercised to prevent abuse of the process of the Court or otherwise to secure the ends of justice.

On careful scrutiny of the material available in the Case Diary, this Court is of the view that no *prima facie* material under Sections 323/506/34 of the Code has been made out against the petitioners and allowing the proceeding to continue shall be an abuse of the process of the Court.

Accordingly, the revisional application, being CRR 1415 of 2024 is allowed.

GR 6517 of 2021 pending before the learned Additional Chief Judicial Magistrate, Barrackpore, North 24 Parganas be quashed qua the petitioners.

The petitioners be set at liberty at once and discharged from their bail bonds.

It is made clear that proceeding shall continue against the other accused.

Case Diary be returned.

Urgent certified website copy of this order, if applied for, be given to the parties, upon compliance with all requisite formalities.

(Suvra Ghosh, J.)