

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

**PRESENT:
THE HON'BLE JUSTICE UDAY KUMAR**

CRR 1333 of 2018

+

CRAN 8 of 2025

With

CRR 1334 of 2018

+

CRAN 9 of 2025

Partha Pritam Pal @ Partha Pritom Pal

-Vs-

Smt. Kanika Mondal, Nee Sikdar, Nee Pal & Anr.

For the Petitioner	: Mr. Bikram Chatterjee Mr. Sutirtha Nayek
For the Opposite Party No.1	: Mr. Md. Shafiul Alam Md. Basir Layek Mr. Kalyan Mitra
For the State in CRR 1333 of 2018	: Mr. Debasish Roy, Learned P.P. Ms. Faria Hossain Mr. Dipankar Mahato
For the State in CRR 1334 of 2018	: Mr. Debasish Roy, Learned P.P Mr. Saryati Dutta
Hearing concluded on	: 11.07.2025
Judgment on	: 22.08.2025

UDAY KUMAR, J.: –

1. This common judgment addresses two criminal revision applications, CRR 1333 of 2018 and CRR 1334 of 2018, both filed by Sri Partha Pritam Pal @ Sri Partha Pritom Pal against the same opposite party, Smt. Kanika Mondal, Nee Sikdar, Nee Pal. Although they arise from distinct complaints, the intertwined nature of the factual allegations and the commonality of the parties have necessitated a single disposition to ensure a just and legally sound conclusion by examining the full context of the allegations. The main question before me is whether the criminal cases filed by Smt. Kanika Mondal, Nee Sikdar, Nee Pal are a malicious misuse of the legal process.

Background Facts

2. The core of this matter is a relationship that existed between the petitioner, Sri Partha Pritam Pal @ Sri Partha Pritom Pal, and the complainant, Smt. Kanika Mondal, Nee Sikdar, Nee Pal. This relationship led to two separate police cases being filed in different locations.

- a. **Jorabagan Police Station Case No. 74 of 2017 (CRR 1333 of 2018):** This case is based on a complaint by Smt. Kanika Mondal, Nee Sikdar, Nee Pal alleging a "de facto" marital relationship with the petitioner. She claims that while she was residing with him at her matrimonial house as husband and wife, he inflicted mental and physical cruelty upon her for a demand of money and gold from her father as dowry. As a

result, the case was registered under Section 498A of the Indian Penal Code and under Sections 3 and 4 of the Dowry Prohibition Act. The complainant alleges that during this relationship, she was eventually thrown out of the house.

- b. **Barasat Women Police Station Case No. 121 of 2017 (CRR 1334 of 2018):** This case involves more serious allegations, registered under Section 376 of the IPC (rape). The complainant claims that Sri Pal promised to marry her, but this promise was false. She alleges that she consented to a sexual relationship because of this fraudulent promise, which, by law, amounts to rape. She also alleges physical assault, criminal intimidation, a forced abortion, and the use of caste-based slurs.

Arguments of the Parties

3. Mr. Bikram Chatterjee, the Learned Advocate for the petitioner, argued that both cases should be quashed. He presented a clear defence, stating that the complaints are a malicious abuse of the law. He argued that the charge under Section 498A IPC is legally unsustainable because the petitioner was already legally married to another woman since 2002. He emphasized that there was no valid marriage existed with the complainant. He also highlighted that the complainant is a "habitual offender" who has filed similar cases against her own husband, suggesting that these complaints are part of a pattern of malicious prosecution for extortion.

4. Conversely, Mr. Debasish Roy, the Learned Public Prosecutor for the State, and Md. Shafiul Alam, Learned Advocate for the Opposite Party No.1 in CRR 1333 of 2018, argued that the case complainant must be allowed to proceed. He maintained that the allegations are serious and disclose valid criminal offenses. They emphasized that the truthfulness of these claims, particularly the fraudulent nature of the promise of marriage, can only be determined through a full trial, not at this preliminary stage. He correctly cited judgments like *State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335 which cautions courts against quashing a case unless it falls into the "rarest of rare" category. He also cited *R.P. Kapur v. State of Punjab*, 1960 AIR 862 which warns against conducting a "mini-trial" to weigh evidence before the proper time.

Questions for Determination

5. The central question for this Court's determination is whether the criminal proceedings initiated by the complainant constitute a malicious and baseless abuse of the legal process warranting their quashing, or if they disclose cognizable offenses that require adjudication through a full trial.

Decision with Reasons

6. I have carefully considered all the facts and arguments in both cases to reach a reasoned conclusion.

Regarding CRR 1333 of 2018 (The Jorabagan Case)

7. A charge under Section 498A IPC is only possible if a legally valid marriage exists. It is an essential and foundational requirement of law.

The law does not recognize a 'de facto' marital relationship as sufficient for this purpose. In this case, the petitioner has presented concrete, undisputed documents showing that he was legally married to another woman long before the alleged relationship with the complainant. Furthermore, a police investigation confirmed that the complainant herself is a married woman. This incontrovertible evidence fundamentally shatters the very basis of the charges. The absence of this indispensable prerequisite renders the entire proceeding legally unsustainable from its inception.

8. This evidence fundamentally destroys the very basis of the case. The claim of a marriage, which is a necessary legal element for the charge, is proven to be false. The court cannot allow a case to proceed when its very foundation is shown to be non-existent. The complainant's act of filing two contradictory complaints—one based on a marriage and another on a false promise of marriage—shows a clear malicious intent. This is a classic example of an abuse of the legal process. This calculated and self-contradictory conduct, coupled with the absence of a legal basis for the charges, leaves this court with no option but to exercise its inherent power under *State of Haryana v. Bhajan Lal (Supra)* to prevent the abuse of the legal process, where the allegations do not disclose a legal offense and where the proceedings are manifestly malicious and instituted with an ulterior motive. Allowing this case to continue would be a travesty of justice.
9. Therefore, I have no option but to use the court's power to quash these proceedings.

Regarding the Barasat Case (CRR 1334 of 2018)

10. This case involves very serious charges, particularly the allegation of rape under Section 376 IPC. The complainant's assertion that her consent was obtained through a false promise of marriage establishes a strong initial case. While the petitioner has disputed this allegation, it forms a disputed question of fact that needs to be determined at trial. It is a matter that requires a full and fair trial.
11. The petitioner's defence that the relationship was consensual and that the case is malicious is a matter of fact. It is a well-established legal principle that this court, when considering whether to quash a case, cannot conduct a "mini-trial" to resolve such factual disputes. The mere fact that the complainant has filed multiple cases does not automatically prove malicious intent, especially when the complaints, as in this instance, appear to raise distinct legal issues. The allegations are not so inherently unbelievable that they should be dismissed at this early stage. This case does not fall within the narrow exceptions laid down in *State of Haryana v. Bhajan Lal (Supra)* for quashing a case, i.e., it does not warrant a premature dismissal. The petitioner is free to present all his pleas, arguments, and defences during the trial.
12. Therefore, I am of the opinion that the criminal proceedings in this case do not constitute an abuse of the legal process. The allegations in the FIR are serious and must be adjudicated through a full and fair trial.

Conclusion

13. In view of the aforesaid analysis of the facts in the light of the applicable law, I find a clear and crucial distinction between the two cases. The

Jorabagan case is a textbook example of a legal proceeding that is fundamentally flawed from its inception. The essential prerequisite for the charges—a valid marriage—is demonstrably absent, leaving the entire complaint without any legal basis. This court cannot be a mute spectator to such a brazen attempt to misuse the protective provisions of the law for what appears to be an ulterior motive. This kind of action not only wastes the court's time but also subjects an individual to unwarranted harassment, which is a clear abuse of the legal process.

14. In stark contrast, the Barasat case involves grave and serious allegations that cannot be dismissed lightly. The complainant's claim of consent being obtained under a fraudulent promise of marriage is a question of fact that requires a thorough examination of evidence. This court's revisional jurisdiction is not a substitute for a trial. Dismissing these charges at this stage would be a grave injustice to the complainant and would set a dangerous precedent, undermining the very purpose of criminal law. The petitioner's pleas of consensual relationship and malicious prosecution are valid defences, but they must be proven during the trial, where evidence can be properly weighed and cross-examined. The integrity of the legal system demands that such serious allegations be put to the test in a court of law.

15. This judgment, therefore, serves a dual purpose: it protects an individual from a baseless and malicious prosecution while simultaneously ensuring that genuine criminal allegations are not stifled at a premature stage. This is a solemn exercise of the court's inherent

powers under Section 482 of the Code of Criminal Procedure to secure the ends of justice.

Consequential Orders

16. Accordingly, the following orders have been passed on the basis of the above discussions and reasoning:

i. CRR 1333 of 2018 is allowed.

- a. The proceedings in connection with Jorabagan Police Station Case No. 74 of 2017, corresponding to G.R. No. 1117 of 2017, now pending before the Learned Additional Chief Metropolitan Magistrate at Bichar Bhavan, Bankshal Court, Kolkata, are hereby quashed.
- b. The petitioner, by Sri Partha Pritam Pal @ Sri Partha Pritom Pal, is discharged from the said case.

ii. CRR 1334 of 2018 is dismissed.

- a. The revisional application to quash the proceedings in Barasat Women Police Station Case No. 121 of 2017, is denied.
- b. The Learned Chief Judicial Magistrate, Barasat, is directed to proceed with Barasat Women Police Station Case No. 121 of 2017 expeditiously and in accordance with the law.

17. The petitioner is at liberty to raise all his pleas and defences before the trial court at the appropriate stage.

- 18.** CRAN 8 of 2025 in CRR 1333 of 2018 and CRAN 9 of 2025 in CRR 1334 of 2018 are disposed of accordingly.
- 19.** Interim orders, if any, in both cases are hereby vacated.
- 20.** There shall be no order as to the costs.
- 21.** Case diary, if any, be returned forthwith.
- 22.** The Trial Court Record, if any, shall be sent down to the Trial Court, at once.
- 23.** Let a copy of this judgment be forthwith transmitted to the concerned Trial Court for information and necessary action.
- 24.** Urgent photostat certified copy of this judgment, if applied for, be given to the parties, as expeditiously as possible, upon compliance with the necessary formalities in this regard.

(Uday Kumar, J.)