

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

Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

CRAN 3/2025

In

C.R.R. 2288 of 2022

Debtanu Chakraborty & Ors.

Versus

The State of West Bengal & Another

For the Petitioners	:	Mr. Dibyayan Banerjee, Adv. Mr. Abhrajit Roy Chowdhury, Adv
For the State	:	Mr. Antarikshya Basu, Adv. Ms. Madhumita Basak, Adv.
Finally heard on	:	13.02.2026
Delivered on	:	20.03.2026

Ajay Kumar Gupta, J.:-

CRAN 3 of 2025

1. This is an application filed by the petitioners praying for the recall and modification of the judgment and order dated 16.07.2025, passed by this court in a Criminal Revisional application, being No. CRR 2288 of 2022.

FACTS OF THE CASE:-

2. Sans unnecessary details, the facts of the case are mentioned hereunder for proper and effective disposal of this application: -
 - a. The complainant/opposite party no. 2 was married to the petitioner on 02.02.2021 in accordance with the Hindu Rites and Customs. The marriage was based on a negotiation and was duly registered on 13.03.2021. The allegation of the opposite party no. 2 was that she was subjected to mental and physical cruelty by the petitioner no. 1, as well as her other in-laws.
 - b. The accused persons applied pressure on the complainant to recover Rs. 10 lakhs from her parental home. When she refused to meet this demand, the alleged torture worsened. Unable to endure such treatment, she informed her father by phone. When her father visited her matrimonial home, the petitioners pressured him to pay Rs. 10 lakhs. When he said he could not provide the amount, the petitioners told him that unless he paid the money, the complainant would not be allowed to stay at her marital home. Subsequently, on 15.03.2021, the complainant and her father were expelled from the matrimonial house.
 - c. After returning to her paternal home on 15.03.2021, her family members and relatives tried to resolve the matter. However, on 08.02.2022, the complainant's husband came to her parental house and again demanded a sum of Rs. 10 lakhs. Upon her protest, she

was assaulted by him, as a result of which she sought medical treatment at Vidyasagar Hospital.

- d.** Thereafter, on 14.02.2022, the complainant approached the Learned Additional District Judge, 14th Court, Alipore by filing a Matrimonial Suit being Mat Suit No. 494 of 2022, praying for divorce under Section 13(1) (ia) of the Hindu Marriage Act, 1955.
- e.** After filing the Matrimonial Suit, she lodged a complaint before Madhyamgram police station on 20.02.2022, making the allegations as aforesaid. Based on the said complaint, an FIR was registered being Sarsuna Police Station Case No. 12/2022, dated 20.02.2022, under Sections 498A/323/34 of the Indian Penal Code, read with Sections 3/4 of the Dowry Prohibition Act against the accused persons, and an investigation was initiated.
- f.** Upon completion of investigation, Charge Sheet being Charge Sheet No. 06/2022 dated 31.03.2022 under Sections 498A/323/34 of the Indian Penal Code read with Sections 3/4 of the Dowry Prohibition Act, had been submitted against the petitioner no. 1 and the other in-laws. All the petitioners filed the Criminal Revisional application seeking quashing of the aforesaid proceeding. After hearing the parties, this court finally quashed the proceeding only insofar as the other in-laws are concerned. However, the case of the husband/petitioner no. 1 was rejected on the ground that there are prima facie sufficient materials against the husband in the case

diary, and the offence alleged against the husband was cognizable offence as such his case cannot be quashed.

SUBMISSIONS ON BEHALF OF THE PETITIONERS:-

3. Learned counsel appearing on behalf of the petitioners submitted that the opposite party no. 2 has falsely implicated the petitioner no. 1 and her other in-laws without disclosing the essential ingredients as required to establish an offence under Section 498A of the IPC. Further, it was contended that the allegations levelled against the petitioners were general, vague and failed to attribute any specific role with regard to the allegations of cruelty or dowry demand. Despite a similar set of facts and allegations, this court only quashed the proceeding against the in-laws and rejected the case of the petitioner no. 1/husband ignoring similar facts and circumstances. Therefore, similar benefits are required to be rendered in favour of the petitioner no. 1.
4. It was further submitted that in course of investigation, no substantial or cogent evidence was collected to establish the involvement of the petitioner no. 1 in commission of offences punishable under Sections 498A/323/34 of the IPC and Sections 3/4 of the Dowry Prohibition Act and in absence of such substantial evidence, the accusations of the de-facto complainant are concocted and fabricated only to harass the petitioner no. 1 who is in no way involved in demanding dowry or any physical assault. Therefore,

allowing such a proceeding to continue in the absence of any substantial evidence against the petitioner no. 1 would tantamount to abuse of process of law, and for securing the ends of justice, the proceeding against the husband is also liable to be quashed by modifying the aforesaid judgment and order. In support of his submission, the learned counsel has placed reliance of a decision in the case of ***New India Assurance Company Limited Vs. Krishna Kumar Pandey***¹.

SUBMISSIONS ON BEHALF OF THE STATE:-

5. Per contra, learned counsel appearing on behalf of the State vehemently opposed the prayer for recalling and/or modifying the aforesaid judgment and order. There is no provision for recalling and modifying the final judgment and order passed by this court. There is no clerical or arithmetical error apparent in the judgment. This court has discussed in detail the merits of the case and, thereafter, quashed the case against the in-laws, when no sufficient material was found against them. However, this court clearly indicated that there is prima facie sufficient material against the husband and he is required to face the trial to uncover the truth.
6. Learned counsel further drew the attention of this court to the real provision of Section 362 of the Cr.P.C. The provision for review/recall of the original revisional order can be warranted only when there is a

¹ (2021) 14 Supreme Court Cases 683

clerical or arithmetical error apparent on the face of the record. No such error apparent on the face of record. Therefore, the application is liable to be rejected. The Learned Counsel has further placed reliance of an unreported decision of the Hon'ble Supreme Court decided in the case of ***Rambali Sahni vs State of Bihar*** in Criminal Appeal No. 105 of 2026.

ANALYSIS AND FINDINGS OF THIS COURT:-

7. Having heard the rival arguments and submissions made by the parties and on perusal of the Judgment and Order as aforesaid, this Court finds that the opposite party no. 2 alleged for a demand of Rs. 10 lakhs and when she failed to provide such demand, she was driven out from the matrimonial home on 15.02.2021. Again, on 08.02.2022, her husband came to her parental house and further demanded such amount, and upon protest, she was assaulted. She was medically treated in the hospital. This Court does not find any specific allegations against other petitioners, who were in-laws. She has also restricted the allegations in a subsequent matrimonial suit against her husband regarding the demand for money and physical assault.
8. This court has thoroughly discussed the entire case on merits and decided the same. There is no error apparent, whatsoever, on the face of the record. Therefore, there is no scope to recall, modify or review the aforesaid judgement and order dated 16.07.2025.

9. The review or recall of the previous order passed on merits is extremely limited, and the same is curtailed by Section 362 of the Cr.P.C. Therefore, the present application for modifying, recalling and/or setting aside or to rectify the final Judgment dated 16.07.2025 passed in CRR No. 2288 of 2022 needs to be rejected with impunity.

10. The Hon'ble Supreme Court has time and again reiterated itself on this issue, the following principles: -

“i. The power of review or recall or modify is limited power and would be governed by Section 362 of the CrPC.

ii. The Court can review or recall its judgment when there is discovery of new and important matter or evidence that was in spite of exercise of due diligence not within the knowledge or could not produce due to cogent reasons by the party seeking a review or recall or modify.

iii. The Court may review, recall or modify its order or judgment on account of some clerical or arithmetical mistake or error apparent on the face of the record.

iv. An error which is not self-evident and has to be detected by a process of reasoning is not an error apparent on the face of the record.

v. The review, recall or modify of earlier Judgment has a limited purpose and cannot be allowed to be ‘an appeal in disguise’. There is a sharp distinction between an erroneous decision that can be only appealed against and an error apparent on the face of the record that is subject-matter to review, recall and modify.”

11. One more aspect of the matter needs to be kept in mind regarding finality of judgments being left in suspense, and the same has been exquisitely described by Hon'ble Justice Krishna Iyer in **P. N. Eswara Iyer V. The Registrar, Supreme Court of India**² wherein he laments and states:

“..... unchecked review has never been the rule. It must be supported by proper grounds. Otherwise, every disappointed litigant may avenge his defeat by a routine review adventure and thus obstruct the disposal of the ‘virgin’ dockets waiting in the long queue for preliminary screening or careful final hearing.....”

Justice Iyer goes on to further state as follows:

“Frivolous motions for review would ignite the ‘gambling’ element in litigation with the finality of judgments even by the highest court, being left in suspense. If, every vanquished party has a filing at ‘review’ lucky dip and if, perchance, notice was issued in some cases to the opponent the latter- and, of course, the former, - would be put to great expense and anxiety. The very solemnity of finality, so crucial to judicial justice, would be frustrated if such a game were to become popular.”

12. In addition to that, this Court would like to refer to Section 362 of the Cr.P.C. for ready reference as under: -

“362. Court not to alter judgment. —Save as otherwise provided by this Code or by any other law for the time

² 1980 (2) SCR 889; 1980 (4) SCC 680

being in force, no Court, when it has signed its judgment or final order disposing of a case, shall alter or review the same except to correct a clerical or arithmetical error.”

13. Considering the above facts and circumstances and real provision of Section 362 of the CrPC, this Court finds the revisional application was disposed of on the merits of the case.
14. In the light of the above discussions, this Court does not repose confidence in the submissions made by the learned counsel appearing on behalf of the petitioners. This Court is conscious that High Courts can take recourse to the inherent power to recall a judgment or order only to a limited extent, notwithstanding the restriction under Section 362 of the Cr.P.C.
15. The Judgments, whatsoever relied upon by the petitioners hereinabove, are not at all relevant to succeed in the facts and circumstances of the present case in hand. There is no clerical mistake or athematic error in the final judgment. Therefore, there is no need for review, recall or modification of the Judgment dated 16.07.2025.
16. For the reasons stated hereinabove, this Court is of the considered view that this is not a fit case for review, recall or modification of the earlier judgment dated 16.07.2025 passed by this court
17. Accordingly, **CRAN 3 of 2025** is, thus, **dismissed**.

- 18.** Urgent photostat certified copy of this Judgment, if applied for, is to be given as expeditiously to the parties on compliance of all legal and necessary formalities.

(Ajay Kumar Gupta, J)

P. Adak (P.A.)