

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

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. 2381 of 2022

Rakhi Sardar & Ors.

Versus

The State of West Bengal & Another

For the Petitioners : Mr. Malay Bhattacharya, Adv.
Ms. Sudipta Sengupta, Adv.

For the Opposite Party No. 2 : Mr. Aniket Mitra, Adv.
Mr. Kaushik Saha, Adv.
Mr. Kaushik Karmakar, Adv.

For the State : Mrs. Anasuya Sinha, Adv.
Mr. Sachit Talukdar, Adv.

Heard on : 02.09.2025

Judgment on : 26.09.2025

Ajay Kumar Gupta, J:

1. The four Petitioners/accused have preferred this Criminal Revisional application under Section 482 of the Code of Criminal Procedure, 1973 (In short 'Cr.P.C.'), seeking quashing of the proceedings being G.R. Case No. 6906 of 2017 corresponding to Special Case No. SPL-156/2021 arising out of Shibpur Police Station Case No. 597 of 2017 dated 02.12.2017 under Sections 341/325/506/34 of the Indian Penal Code read with Section 3(i)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, pending before the Court of the Learned Additional Sessions Judge, 1st Court, Howrah –cum- Special Judge on SC & ST (POA) Act, Howrah and all orders passed therein in connection with the instant case.

FACTS OF THE CASE

2. The brief facts of this case are relevant for the purpose of disposal of this case are as under: -
 - a. This is a peculiar case, where the husband of petitioner no.1 has lodged a written complaint dated 2nd December, 2017, before the Shibpur Police Station against his wife and in-laws. The written complaint was treated as a First Information Report and, accordingly, Shibpur Police Station Case No. 597/2017 dated 02.12.2017 under Sections 341/325/506/34 of the Indian Penal Code and Section 3 (i)(x) of the Scheduled Castes and Scheduled

Tribes (Prevention of Atrocities) Act, 1989 was registered against the accused persons.

- b. In the written complaint, it has been alleged that the complainant/Opposite party no.2 belongs to the Schedule Tribe Community, sub-caste Santal. He married petitioner no. 1 on 30th July, 2007, and a girl child was born out of the wedlock. It was further alleged that soon after marriage, petitioner no. 1/his wife used to taunt him about his caste and addressed him as “Junglee”.
- c. On 28th November, 2017 at about 11.30 PM, when the complainant enquired about his medicine, the petitioner no. 1 allegedly became furious and abused him in filthy language, called the other petitioners and together they assaulted the complainant with fists and blows, causing injuries that required medical treatment.
- d. The petitioners, however, contended that the allegations are wholly false and fabricated. On the contrary, it was the complainant/opposite party no. 2 who, soon after marriage, inflicted cruelty on petitioner no. 1 by making unlawful demands for dowry. Petitioner no. 1 had earlier lodged several complaints with the local police station in this regard. On 20th April, 2017, the opposite party no. 2 allegedly assaulted petitioner no. 1 mercilessly, leading to her hospitalisation. Finding no alternative, petitioner no. 1 lodged a written complaint before Shibpur Police

Station, which was registered as P.S. Case No. 193/2017 dated 20.04.2017 under Sections 498A/325/406 IPC.

- e. The petitioners further contended that immediately after the petitioner no. 1 lodged the complaint dated 20.04.2017, the opposite party no. 2, in retaliation and without any valid reason, instituted a Matrimonial Suit under Section 13(1) of the Hindu Marriage Act before the Court of Learned District Judge, Howrah on the next day i.e. 21.04.2017 and the said case was registered as Matrimonial Suit No - 408 of 2017. According to the petitioners, the Matrimonial Suit is nothing but an afterthought, filed only to mentally harass her following the complaint lodged by Petitioner no. 1.
- f. Thus, being aggrieved by and dissatisfied with the Proceeding being GR Case No. 6906/2017 corresponding to Special Case no SPL-156/2021 and all orders passed therein in connection with Shibpur Police Station Case No. 597/2017 dated 02.12.2017 under Sections 341/325/506/34 of the Indian Penal Code and Section 3 (i)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the petitioners compelled to filed this instant application before this Hon'ble Court seeking quashing of the proceeding for preventing abuse of process of law.

SUBMISSION ON BEHALF OF THE PETITIONERS:

3. Mr. Bhattacharya, learned counsel appearing on behalf of the Petitioners, vehemently argued and submitted that the allegations levelled against the petitioners are concocted, vague, general and omnibus without attributing a specific role to the accused persons. Furthermore, no particular time, mode or manner of physical assault was mentioned. The complaints are completely bereft of any specific act of the Petitioner Nos. 1 to 4.
4. Actually, allegations, as levelled against them, are totally false and fabricated because the complainant/opposite party no. 2 herein, soon after their marriage, used to inflict torture upon the petitioner no. 1 on the demand of dowry, and, as such, the petitioner no. 1 lodged several complaints before the concerned police station previously. That finally, on 20.04.2017, the opposite party no. 2 assaulted the petitioner no. 1 mercilessly and, as such, the petitioner no. 1 was hospitalized and, thus, finding no other option, the petitioner no. 1 lodged a written complaint before the Shibpur police station and the same has been registered as Shibpur Police Station Case No. 193/2017 dated 20.04.2017 under Sections 498A/325/406 of the Indian Penal Code against him.
5. Immediately thereafter, in retaliation, the complainant instituted a matrimonial suit under Section 13(1) of the Hindu Marriage Act on

21.04.2017, seeking divorce, which is nothing but an afterthought to harass petitioner no. 1. She has duly contested the said suit by filing her written statement denying all allegations.

6. It is further submitted by learned counsel that significantly, the opposite party no. has admitted on affidavit that petitioner no. 1 has been living separately since 05.02.2017. However, he lodged the instant complaint on 2nd December, 2017, alleging an incident dated 28th November, 2017, which itself demonstrates the false, fabricated and contradictory nature of the allegations. The continuation of proceedings, on the basis of such a complaint, would amount to gross abuse of process of law.
7. It was further urged that the investigating officer of this instant case has submitted a stereotype Charge Sheet being No - 65 of 2020 dated 31.03.2020 under sections 341/323/506/34 of Indian Penal Code read with Section 3 (i)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the petitioners herein without proper investigation.
8. The I.O. did not disclose any cognizable offence and made out a case against the Petitioners. Due to such vague, false and frivolous allegations, the proceeding, if continued against the petitioners, would be a gross abuse of process of law. Therefore, he prays for the quashing of the proceedings.

SUBMISSION ON BEHALF OF THE OPPOSITE PARTY NO. 2:

9. Mr. Mitra, learned counsel appearing on behalf of the Opposite Party No. 2 vehemently opposed the prayer for quashing of the proceedings and further submitted that the written complaint or FIR has disclosed the cognizable offence committed by the Petitioners, though not in detail. The same may be considered after a full-fledged trial, as charge sheet has been submitted in the present case after thorough investigation. A charge sheet has been submitted under section 173 of Cr.P.C. Therefore, the prayer for quashing of the Petitioners is liable to be rejected, and this Criminal Revisional application should be dismissed so that trial may be commenced in accordance with law to unearth the truth.

SUBMISSION ON BEHALF OF THE STATE:

10. Learned counsel representing the State produced the Case Diary and further submitted that during investigation, sufficient materials were collected by the Investigating Officer against the present Petitioners. Materials collected during the investigation established a prima facie case under sections 341/323/506/34 of IPC and 3(i)(x) of SC & ST (POA) Act, 1989, against the present petitioners, therefore, this application is liable to be dismissed.

DISCUSSION AND FINDINGS BY THIS COURT:

11. Having heard the rival arguments and submissions made by the learned counsels appearing for the respective parties and upon perusal of the materials available in the Case Diary and the documents annexed with this Revisional application, this Court finds that the Petitioner no. 1 lodged a complaint against her husband/opposite party, only on 20.04.2017.
12. On the very next date, i.e., on 21st April, 2017, the Opposite party no.2/husband instituted a matrimonial suit no. 408 of 2017 against her seeking divorce and on 2nd December, 2017, he lodged a complaint against all the petitioners, including his wife, under sections 341/323/506/34 of IPC and 3(i)(x) of SC & ST (POA) Act, 1989.
13. Upon perusal of the pleading, it is revealed that the wife left her matrimonial home on 5th February, 2017, and started living separately by deserting him from leading a conjugal life. If that be so, the natural question that arises is how the accused persons could have possibly committed the offence as alleged by the Opposite Party No. 2, in the absence of any specific role, date, time, or overt act attributed to them?
14. No specific time and place are mentioned in his written complaint. Even upon perusal of the case diary, particularly the statements of

the witnesses under section 161 of Cr.P.C., this court finds that the evidence collected during the investigation does not implicate the other accused persons, save and except the Petitioner No.1/wife.

15. It further transpires from the case diary that the Opposite party suffered injury and was treated at the Howrah District Hospital and discharged from there on 1st December, 2017. The Injury report clearly reflects that the Opposite party no. 2 “was assaulted by his wife Rakhi Sardar by bamboo and fists and kicks over back and by pressing his neck”. The history of assault is revealed from the injury report.
16. A perusal of the FIR and the statements recorded under Section 161 of the Cr.P.C. reveals that the allegations against the in-laws are general, omnibus and lacking in particulars. No name, date, time, mode or manner of the alleged cruelty has been mentioned. In such circumstances, an accused cannot be compelled to face trial. The Hon’ble Supreme Court has consistently held that the proceedings against any accused should not be allowed to continue unless there is a specific allegation or specific role attributed against the accused.
17. When there is no specific role attributed or allegation levelled against a particular accused and no details regarding date, time and manner of such physical assault or mental torture have been mentioned, then such a proceeding should be nipped in the bud. Otherwise, the

accused would suffer grave prejudice, harassment, and oppression despite there being no prima facie material against them.

18. It is settled law that while an FIR need not be an encyclopaedia, the investigation must yield cogent, corroborated, and specific material against the accused. In the present case, even after investigation, the allegations remain vague and bald against the in-laws. No particulars of physical assault or mental cruelty are attributed to Petitioner no.2 to 4. Such vague and omnibus allegations, without substantive evidence, do not disclose the commission of any offence and continuation of proceedings against the in-laws would amount to abuse of process.
19. 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.***¹ The Hon'ble Supreme Court has categorically held that the extraordinary jurisdiction laid down in the provision of section 482 of the Cr.P.C. should be exercised where;
 - i. The allegations do not disclose a cognizable offence, or
 - ii. The proceedings are manifestly attended with mala fides and instituted with an ulterior motive.
20. Relevant portion thereof may beneficially be quoted herein below: -

¹ AIR 1992 SUPREME COURT 604; 1992 Supp. (1) Supreme Court Cases 335

“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.”

21. In the light of the above discussions and in view of the observations made by the Hon’ble Supreme Court in the judgment cited above, this

Court is fully satisfied that this case falls in the categories mentioned in 3 and 5 above as far as the in-laws are concerned.

22. Accordingly, **CRR No. 2381 of 2022** is, thus, **allowed partly**.
Connected applications, if any, are also, thus, disposed of.
23. Consequently, the proceeding being G.R. Case No. 6906 of 2017 corresponding to Special Case No. SPL-156/2021 arising out of Shibpur Police Station Case No. 597 of 2017 dated 02.12.2017 under Sections 341/325/506/34 of the Indian Penal Code read with Section 3(i)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, pending before the Court of the Learned Additional Sessions Judge, 1st Court, Howrah –cum- Special Judge on SC & ST (POA) Act, Howrah is hereby quashed insofar as the Petitioner Nos. 2 to 4 are concerned and all orders passed therein in connection with the Petitioner Nos. 2 to 4 are also set aside.
24. This Court, however, makes it clear that the complaint against the Petitioner no. 1, namely, Rakhi Sardar, will be decided on its own merits by the Additional Sessions Judge, 1st Court, Howrah –cum- Special Judge on SC & ST (POA) Act, Howrah concerned, independently, and in accordance with law without being influenced by any of the observations made by this Court.
25. Let a copy of this Judgment be sent to the Learned Court below for information.

26. Interim order, if any, stands vacated.
27. Case Diary(s), if any, be returned to the learned counsel for the State.
28. Parties shall act on the server copies of this Judgment uploaded on the official website of this Court.
29. 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)

P. Adak (P.A.)