

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

Present:-

HON'BLE JUSTICE CHAITALI CHATTERJEE DAS.

CRR 2497 OF 2023

SOUTIK DAS & ORS.

VS

THE STATE OF WEST BENGAL & ANR.

For the Petitioners : Ms. Debisree Adhikery, Adv.

For the State : Mr. Debasish Roy, Learned Public Prosecutor.
Mr. Imran Ali, Adv.
Mr. Debjani Sahu, Adv.

For the Opposite

Party No. 2 : Mr. Debarshi Das, Adv.
Mr. Amit Pan, Adv.

Last heard on : 05.12.2025

Judgement on : 23.12.2025

Uploaded on : 23.12.2025

CHAITALI CHATTERJEE DAS, J. :-

1. This is an application under Section 482 of the Code of Criminal Procedure, 1973 filed by the present petitioners for quashing of the proceeding being G.R case no. 3176 of 2021, arising out of new town Police Station case number 226 of 2020, dated November 23, 2020, under Section 498A/406 of the Indian

Penal Code, 1860 read with Section 3 and 4 of the Dowry Prohibition Act, 1961, pending before the Learned Second Judicial Magistrate at Barasat.

Brief note of the case

2. The petitioner no. 1 and the Opposite Party no. 2 are legally married husband and wife and their marriage was solemn on May 6, 2013 as per Hindu rites and customs and it was registered at Chennai on May 20, 2013 as per provisions of the Hindu Marriage Act, 1955. In the year 2015, the petitioner number one noticed that his wife is involved with one Sujoy naik , a resident of the same society in Bangalore and this fact was intimated to the wife of such person as well as the parents of the Opposite Party no.2 by the petitioner number one. The pity parents of the Opposite Party no. 2 assured that the petitioner no. 1 will be counsel to stop such type of activities.
3. It is the further case of the petitioner that despite facing such problem and adjusted against all odd situations, on the assurance given by his wife the matrimonial tie remained and they were also hello blessed with a male child born on June 7, 2017 at Bangalore. Prior to birth of the child both the parties while staying at Singapore for the purpose of their job. In the month of November 2018, both the parties shifted to Sydney in Australia and started residing there and Opposite Party no. 2 changed her employment and joined the C.N.H industrial at Sydney and during that period again, she involved with one of her colleague, namely Prashant Alexander and maintained an extramarital relation with him. In the month of August 2019, it was found that the Opposite Party no. 2 has no affection, love, and sympathy towards her minor son, and the minor was then admitted to eye hospital in Australia for

the purpose of an surgery, the mother refuse to meet her child to the hospital. After that opposite party number two started a mental as well as physical torture regularly upon the petitioner no. 1 by showing household articles and utensils towards the petitioner no.1 without any reason and also threatened him on several times to destroy his career as the petitioner number one detected such extramarital affairs. Being unable to bear the torture upon petitioner no. 1 by the Opposite Party no. 2, he decided to return to India with their minor son, but Opposite Party no. 2 did not agree to accompany them up to the residence of the petitioner no. 2 at Siliguri and accordingly on reaching airport at Dum Dum opposite party number two went to the residence of her father with the minor son when petitioner no.1 came back to his father house at Siliguri. Having no other alternative, the petitioner number one constraint to file a matrimonial suit on October 5, 2020 being suit no. 291(10) of 2020, under Section 13 of the Hindu Marriage Act, 1955 in the Court of the Additional District judge FastTrack Court at Siliguri against the Opposite Party no. 2 for dissolution of marriage which was later on transferred to the Court of Learned Additional District Judge III, Barasat 24 Parganas North at the instance of the Opposite Party no. 2 and pending for final adjudication. After the Opposite Party no. 2 came to know about the state fact of filing matrimonial suit on October 31, 2020 when she received the summons of the Saint matrimonial suit, as a counter blast lodged a complaint before the Newtown Police Station on November 23, 2020 under Section 498A/406 of the Indian Penal Code, 1860, read with Section 3 and four of the dowry Prohibition act 1961 against the present petitioners with false and concocted allegations, and with ulterior motive. In courts of investigation, the present petitioner after

receiving information of initiation of criminal case surrendered before the Court of learner, Chief Judicial Magistrate and Barasat and were enlarged on bail. It is the case of the petitioners that on mere perusal of the complaint filed by the opposite party number two would show that no substantial allegation of dowry has been made out in the complaint, and therefore the complaint is not tenable in the eye of law. On completion of the said investigation, the police authorities submitted the charge-sheet on April 27, 2021 under the aforesaid provisions and the statement recorded by the investigating officer under section 161 of the code of criminal procedure, 1973, as well as from the charge-sheet, it would be evident that the allegations made against the petitioners are absolutely omnibus in nature and do not construe any offence at all. The Opposite Party no. 2 has included the penance of the petitioner number one as accused person number two and three when the fact remains, they are living separately at a remote distance, having no nexus with the place of residence. Accordingly filed this revision application for quashing of the proceedings as if it is allowed to be continued. It would be – gross abuse of the process of law.

Submissions

4. The learned Advocate representing the petitioner, strenuously argued that the parties are well educated and well established in their respective life, and they have travelled half the part of the world and the de-facto complainant hardly had any occasion to interact with each other since she along with her husband, after marriage went to their respective place of work and lastly were

posted at Australia, Sydney, and while returning, she did not turn up to the matrimonial house. No previous complaint was filed no medical documents to substantiate her claim regarding torture inflicted on her and in her written complaint alleged about inflicting torture on her, even at Sydney by the husband, but no complaint was ever lodged to that extent. The complaint was lodged on 23rd November, 2020 without specifying any details of the torture as alleged inflicted upon her by the petitioner. The allegations are general and omnibus in nature. The Opposite Party no. 2 has alleged that on 3 March 2020, when they reached Kolkata airport, her husband dumped her with her three year old child and she had to beg him for allowing her to make a call to her father to request for a pick up from airport and on from date, she returned to her maternal home and started leaving with them. It is further argued that by way of supplementary affidavit, the petitioner has annexed some documents, including the letter dated 22 February 2020 which prima facie proves that she had relations with number of persons and also next a document of New South Wales Police force dated sixth of June 2020, which would reveal that the with the Opposite Party no. 2 was meeting another person for few months.

5. Per contra the learned Advocate representing the opposite party number two raises vehement objection and submits that the first issue as raised in this revisional application was settled and the second issue developed in the year 20 1718 when they went to Sydney in Australia. It is further submitted that the Opposite Party no. 2 visited India in November 2018 to May 2019, and has described the torture, which was inflicted on her by the petitioners, including

the parents in law which has been established as the charge-sheet has been submitted by the investigating authorities. Therefore, in order to dig out the truth, the matter should be relegated before the Trial Court to enable the prosecution to prove the case by adducing the prosecution witnesses as cited in the charge sheet.

6. The learned Advocate representing the state. On the other hand, submit that five witnesses have been cited by the investigating authorities is seized and the question of fact as raised by the petitioner can only be decided in court of trial and therefore the parties must face the trial when serious allegations have been levelled against them. Advocate handed over the case diary before this Court.

Analysis

7. Heard the learned Advocates the marriage was solemnised 6 May 2013, according to Hindu rites and customs, which was registered before the marriage registrar Chennai on 20 May 2013, between the de-facto complainant and the petitioner no.1. The complaint reflects that after wedding, she went to her father-in-law's house at Dhubri, Assam for their reception when her in-laws abused her because of not giving dowry at the time of marriage. Her mother-in-law to call the jewellery Gifted to her by her husband's paternal aunts in their wedding and kept with her. Being unable to bear such activities of her in-laws, she complaint to her husband, who, instead of supporting her also abused her with filthy languages. The written complaint for the transpires that after marriage which was registered in Chennai, Buddha parties started living at Bangalore and there are also her husband started demanding money

from her to compensate dowry till 26 February 2020, when they last resided together, her husband took money from her of ₹40. Lacs.

8. It was also alleged that her husband forced her to give money for buying a property which she did not agree at first and she had to suffer physical torture and assault by her husband and also threatening with dire consequences. His parents being the present petitioner number two and three also called her over telephone and abused her and her father and for days and her husband assaulted her and did not allow her to eat or visited her office without her consent, and also deemed her in front of her colleague. Being unable to bear such torture, she agreed to give money for buying the property. Accordingly, 29 July 2013, a property of 14 64 ft.² was purchased in their joint name. The name of the husband had to be incorporated because of the pressure created upon her by her husband. It is saying that in the written complaint, the Opposite Party no. 2 has repeated occasion disclose about physical torture on her during their stay at Bangalore. However, nothing can be found as to whether she informed to any authority at Bangalore or not. She father narrates that her parents in law often visited them in Bangalore and stayed for days and during their stay. They abuse her and her parents and tortured her such as forcing her to skip her meals or eat rotten food. They also demanded that she should always leave her bedroom door open, even when changing her clothes or during private moments with her husband. They also used to touch her clothes, including her in our garments regularly in her absence. Her mother-in- law used to wear her clothes and take them away with her without her consent. She also alleged that her mother-in-law also visited her house during their stays and used to take away things without her knowledge. In the

month of December 20 2013, she conceived and informed her husband, but to her utter shock and dismay. Her husband expressed that she should go for an abortion which she refused and then threatened her to kick her out. Finally, she was forced to get an abortion without her consent. After that both of them started reciting at Singapore from April 2016, till February 2017, when she again concept and this time also she was regularly abused and harassed at home and in public place and from there they return to India and again started living at Bangalore. During this time, also when the parents of the husband went to Bangalore to stay with them, they abuse her and tortured mentally did not allow her to take food on time. On 7 June 2017, she gave birth to a male child and when her parents visited at hospital; her husband did not allow them in the house after delivery. Also, the unusual demand increased within 15 days of delivery of our child due to the torture on her by the husband and her mother-in-law, she was forced to take her son and move to her father's house where she was recommended for 45 days, bed rest. After that, she again was taken to Bangalore and whenever during their stay, the parents in law visited the place they always misbehaved with her.

9. It would further reveal from the content of the written complaint that despite all these incidents, the present defective complainant and her husband and the child went to Sydney, Australia on November 2018, for the job of the husband and after that in May 2019, they visited Bangalore. She also alleged abuse, both mentally and physically by the husband at Sydney, both inside home and in public places, an ultimately she was blamed for having extra marital affair by her husband and on that ground. Send her back to India along with her son. On 22 February 2020 during a heated argument, her

husband for her to write a suicide note and written it with him, and since then coursing her tried to murder her with a knife, and he also threatened her and her father that if any complaint has been lodged before the police, she will be murdered. Ultimately on 27 February 2020, a domestic case violence case was filed by someone against the husband in Sydney Police Station, she could not provide any details of the same. They left Sydney and reached Kolkata airport on third of March 2020 when her husband dumped her with three year old son and since then she was not allowed to operate her joint account or withdraw funds lying there at ICICI bank for any online transaction and her husband transferred all the money, keeping a small sum which was used for their sons necessities. A proposal for having a settlement was informed by her father-in-law on 9 June 2020 and asked her to visit Siliguri and ultimately decided to file the complaint against the petitioners. On the basis of this complaint, Basha Police Station case started and on completion of investigation, the charge-sheet has been submitted under Section 498/406 of the Indian penal code along with 3 and 4 of D.P Act. The supplementary affidavit filed by the petitioner has enclosed set in documents, including the WhatsApp chat between the present opposite party number two and her husband as well as some other documents which are denied by filing affidavit in opposition by the Opposite Party no. 2. On this issue is of the view that the documents pertains to factual aspect of the case which cannot be decided by holding a mini trial before this court and should be tested in Court of trial while parties will adduce evidence. In this case, the petitioner no. 1 is the husband and petitioner number two and three are the parents in law. Perusal of the statements recorded under Section 161 by the witnesses who are parents of

the Opposite Party no. 2, and the complainant herself and the police persons total five witnesses. It is undisputed that since after marriage in the year 2013, they live as husband and wife till 3 March 2020 since when they are living separately and during this period of seven years of their marriage, the Opposite Party no. 2 two has raised a series of allegations against the present petitioners When most of the entire period she lived outside India with her husband and at no point of time the present petitioner no.2 and 3 to stay either at Sydney or at Singapore. The sum and substance as can be gathered from the lengthy written complaint pertaining to then nature of allegations levelled against the petitioner number two and three , would be misbehaviour, keeping jewellers with them, wearing the dress of Opposite Party, no. 2 by the mother-in-law, taking away utensils from their house beyond the knowledge of the opposite party number two, abusing her and her father over telephone by calling them, beggars and rotten people and also forcing her to keep the bedroom door open while changing or during the private moment with her husband, can be found. In order to extract Section 498A, the essential requirement are as follows;1) a woman was married 2) she was subjected to It was 3) such reality consisted in any wilful conduct, as was likely to drive such woman to commit suicide or to cause grave injury or danger to her life, limb, or health, whether mental or physical harm to such woman with a view to coercing her to meet unlawful demand for property or valuable security, or on account of failure of such woman or any of our relations to meet the lawful demand. The woman was subjected to such cruelty by her husband or any relation of her husband.

10. It is a settled law that ordinarily in exercise of the inherent jurisdiction, this court cannot embark on an enquiry as to the truthfulness or otherwise of the allegations in a complain/FIR and has to accept those allegations as genuine on its face value. However, if on the basis of materials of an impeachable and startling value, such allegations are found to be perverse or patently, absurd and inherently improbable, it is open to the court to quash such proceeding and also by relying upon such materials which may not be formed part of the charge sheet. As discussed the allegations against the petitioner, number two and three are found absurd and improbable and the face of it and it to disclose that the mind-set of the opposite party number two, who can go up to any extent by putting any allegations against the aged parents-in-law in order to harass the husband and her family members. In the case of **Kahkashan Kausar @ sonam versus state of Bihar**¹, it was observed that Section 498A of the Indian Penal Code was aimed to prevent cruelty committed upon a woman by her husband and her in-laws by facilitating rapid state intervention. But in recent times matrimonial litigation in the country has increased significantly and there is a greater disaffection and friction surrounding the institution of marriage now more than ever which has resulted in an increased tendency to employ provisions such as 498A as instruments to settle personal scores against the husband and his relatives. In the case of **Geeta Mehrotra and another versus state of Uttar Pradesh and another**² the honourable

¹ (2022)6 SCC 599

² (2012) 10 SCC 741

apex court took note of the case of **Preeti Gupta versus State of Jharkhand**³, where it was observed;

32: it is a matter of common experience that most of these complaints under section 498A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filled with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry, harassment are also a matter of concern. 334. The ultimate object of justice is to find out the truth and punish the guilt and protect the innocent. To find out the truth is a herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The Courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husbands close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinise with great care and circumspection.

Conclusions

11. The categories mentioned in the case of **State of Haryana versus Bhajanlal**⁴, are not exhaustive but provide the guiding principles to balance

³ (2010) 7 SCC 667

⁴ 1992 Supp (1) SCC 335

between. a) preventing abuse of process of law b) ensuring that criminal proceedings are not stifled at the threshold on disputed question of fact and in this case, absence of any ingredients to attract either 498A/406 of the Indian Penal Code against the petitioner no. 2 and 3, this Court is of the view that in order to prevent abuse of process of law, the power under Section 482 of the Code of Criminal Procedure is required to be invoked. So far the petitioner no. 1/ husband is concerned most of the allegations are against him and certain question of facts are raised which cannot be divided by this Court by holding a mini trial and therefore that must be relegated for trial.

12. In the instant case on close scrutiny of the content of the complaint as well as on perusal of the materials from the case diary this court is constrained to hold that the instant criminal proceeding initiated against the petitioner number two and three is an abuse of process of law and the same is liable to be quashed.

13. Hence this revisional application stands allowed in part. The proceeding pending before the learned Magistrate and the charge sheet submitted against the petitioner no. 2 and 3 stands quashed .The proceeding would continue against the petitioner no.1 /husband.

14. In view of the above all other connected application is hereby disposed of.

15. Urgent Photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

[CHAITALI CHATTERJEE (DAS), J.]