

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. 2783 of 2024

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Versus

The State of West Bengal & Another

For the Petitioner : Mr. Tapas Kumar Ghosh, Adv.
Mr. Tanmay Chowdhury, Adv.

For the Opposite Party No. 2 : Mr. Amit Roy, Adv.

For the State : Mr. Debabrata Chatterjee, Adv.
Ms. Sudeshna Das, Adv.

Heard on : 28.11.2025

Judgment on : 17.12.2025

Ajay Kumar Gupta, J:

1. The petitioner, being the accused, has preferred this Criminal Revisional application under Section 482 of the Code of Criminal Procedure, 1973 (in short 'Cr.P.C.') corresponding to Section 528 of BNSS, 2023, seeking quashing of the proceeding being Sessions Case No. 49 of 2021, Sessions Trial No. 02(05) of 2023 arising out of Birbhum Cyber Crime Police Station Case No. 03 of 2021 dated January 05, 2021 under Sections 376/417 of the Indian Penal Code, 1860 and Section 66 of the Information Technology Act, 2000, corresponding to G. R. Case No. 21 of 2021 and order dated May 16, 2023 passed by the learned Additional Sessions Judge, 4th Court at Suri, framing charge against the petitioner under Sections 376/417 of the IPC and Section 66A(a), (b) and Section 66E of the IT Act pending before the Court of the Learned Additional Sessions Judge, 4th Court at Suri, Birbhum.

FACTS OF THE CASE:

2. The brief facts of the case of the petitioner are that in the year 2014, when the petitioner was studying at XXX University as an M.Sc. student, he came across the opposite party no. 2, whom he met on Facebook. The petitioner and the opposite party no. 2 became acquainted with each other through Facebook and, thereafter, began communicating regularly on the said platform. Over time, their

acquaintance developed into a close relationship, culminating in a romantic association between them. They started meeting frequently at various public places, including malls, restaurants, etc. They even went on short trips together to places such as Digha and Bakhkali, during which they took photographs together, intended to be preserved as personal memories. It is stated that the said relationship was accepted by the families of both parties.

- 3.** In the year 2020, owing to the outbreak of the COVID-19 pandemic and the consequent lockdown imposed throughout the State, both the petitioner and the opposite party no. 2 returned to their respective homes. All of a sudden, the opposite party no. 2 abruptly severed all ties with the petitioner, which caused him considerable anxiety and concern regarding her unexplained disappearance.
- 4.** Driven by such anxiety and emotional distress, the petitioner sent her an email on July 28, 2022, asking about her whereabouts and sudden disappearance when he was informed by the opposite party no. 2 that she had been forcibly married to one Firojul Islam three days back by her parents because they wanted her to settle down as soon as possible.
- 5.** The petitioner contacted the mother of the opposite party no. 2 over the telephone when he was informed by her that they had found a good match for their daughter, for which they got her married to him.

The mother of the opposite party no. 2 further requested the petitioner not to contact her daughter any further, as it would affect her marital life.

- 6.** The petitioner wanted some answers from the opposite party no. 2, for which he contacted her on Facebook sometime in August 2020, asking her why she had done this to the petitioner and also reminiscing about the beautiful memories that were shared by them. The opposite party no. 2 also indulged in the conversation with the petitioner, but she told him that her husband does not know anything about their relationship or their free mixing so it was better if he stayed quiet about the same.
- 7.** In the meantime, the husband of the opposite party no. 2 came to know about his wife's previous relationship and that she had physical relations with her ex-boyfriend, being the petitioner and upon knowing the same, he became enraged and threatened the petitioner that he would have to face dire consequences for these deeds. He also directed the opposite party no. 2, being his wife that whether she was willing to support him in teaching the petitioner a lesson and as such, upon such direction, the opposite party no. 2 started acting on the direction of her husband.
- 8.** Upon witnessing such problems, the petitioner deleted the Facebook account and cut off all ties with the opposite party no. 2 and blocked

her from all accessible social media accounts so that both of them could lead their lives peacefully.

- 9.** On November 12, 2020, the petitioner received a notice from Suri Cyber Crime police station asking the petitioner to appear before the Inspector-in-Charge of Suri Cyber Crime police station, wherein he appeared and after asking some relevant questions, his laptop and mobile phone were taken by the concerned police station, but later on, his laptop was again returned to the petitioner.
- 10.** Subsequently, the petitioner got to know that one FIR was registered against him by the opposite party no. 2 based on some false and frivolous allegations. He was taken into custody by the concerned police station in connection with Birbhum Cyber Crime Police Station Case No. 03 of 2021 dated January 05, 2021 under Sections 376/417 of the IPC as well as Section 66 of the Information Technology Act, 2000 and initiated investigation against the petitioner.
- 11.** Though the petitioner is innocent and he has been falsely implicated in this case of the alleged offences as both the petitioner and the opposite party no. 2 had love affairs for a long period. She also got married to another person and is leading the life of her own choice, she lodged a false and frivolous complaint alleging several allegations. Hence, this Criminal Revisional application.

SUBMISSION ON BEHALF OF THE PETITIONER:

- 12.** Learned counsel appearing on behalf of the petitioner submitted that despite being innocent and the fact that he had love affairs since long with the opposite party no. 2, the learned trial court framed charge against the petitioner under Sections 376/417 of IPC and Sections 66A (a), (b) and 66E of the IT Act, after filing charge sheet. The opposite party no. 2 had already married with someone else. Therefore, the entire proceeding is only initiated to ruin his life. If such a complaint is allowed to be continued, the petitioner would be highly prejudiced, and his whole life would be spoiled; therefore, the same would be an abuse of process of law.
- 13.** It was further submitted that the opposite party no. 2 lodged the complaint only on such false allegations to save herself from her married life, if he disclosed her photos which was taken during visit of different places prior to her married life. But, the petitioner had no intention to damage her future life when she has already married to someone else.
- 14.** He never disclosed such photos either on Facebook or on other social media. He never disturbed the happy and healthy married life of the opposite party no. 2. Whatever allegations have been made in her written complaint are false, fabricated and manufactured. Despite the said facts, he suffered incarceration of 40 days.

- 15.** He was released on bail by the Learned Sessions Judge on February 15, 2021 and, thereafter, filed this Criminal Revisional application after framing of charge. The allegations against the petitioner were not actually corroborated by the opposite party no. 2 during the investigation.
- 16.** The investigating officer had neither recorded any statements of the opposite party no. 2 under section 161 of the Cr.P.C. nor her statements under Section 164 of the Cr.P.C. during investigation and solely relying upon certain seized devices being the laptop and mobile phone of the petitioner, the investigating officer, only on his table work, perfunctory manner, submitted the charge sheet.
- 17.** The learned Trial Court did not consider their earlier love relations. They had a love affair which became well-known to her family members and her parents. Petitioner had always intended to marry her, but rather the opposite party no. 2, went ahead and got married to someone else without informing the petitioner. Therefore, the petitioner never committed any offence under Sections 376/417 of IPC; even those sections are not at all attracted. The other Sections of the IT Act is also not attracted against the present petitioner even though the learned trial court without assessing all these admitted facts, framed charges as aforesaid. Although, at the time of framing

charge, his lawyer objected the same. Therefore, he prays for quashing the proceeding.

- 18.** Learned counsel submitted that no offence, as alleged by the opposite party no. 2, committed by the petitioner, when she herself consented her physical relation and, subsequently, she herself married to someone else. Therefore, sexual intercourse on the false promise of marriage is not attracted at all against the present petitioner. To support of his contention, he placed reliance of the following judgments:

*i. Uday Vs. State of Karnataka*¹;

*ii. Dr. Dhruvaram Murlidhar Sonar Vs. State of Maharashtra and Ors.*²;

*iii. Sambhu Kharwar Vs. State of Uttar Pradesh & Anr.*³.

SUBMISSION ON BEHALF OF THE STATE:

- 19.** Learned counsel appearing on behalf of the State produced the case diary and on his usual fairness submitted that there was a love affair between the parties since long. However, after hearing the marriage of opposite party no. 2, the petitioner tried to disturb her by different manner. That is why the opposite party no. 2 compelled to lodge complaint against the petitioner alleging offences as aforesaid and on the basis of material available in the charge sheet, the learned trial

¹ (2003) 1 C Cr LR (SC) 555;

² 2019 (1) AICLR 662 (S.C.);

³ 2022 (4) AICLR 578 (S.C.).

court had rightly framed charge against the petitioner. He prays for dismissal of this Revisional application.

DISCUSSION AND FINDINGS BY THIS COURT:

20. Having heard the arguments and submissions made by the learned counsels appearing on behalf of both the parties and upon perusal of the record, including the case diary, it is revealed that they were involved in a love affair since 2015. Admittedly, they started chatting on Facebook almost six years ago.
21. From the perusal of the FIR itself, this Court finds the petitioner/accused, while doing his Ph.D. from XXX University (Department of Physics), allegedly pretended to be a friend of the opposite party no. 2 and started chatting on Facebook almost six years ago. From the beginning, he tried to earn her trust as a good and helpful young man by suggesting good things and avoiding bad things. Finally, when she felt alone and, by his apparent helping nature, trusted him as a good friend and started sharing a few of her personal events with him. Ultimately, it reached to the physical relations. However, she realised and requested him to marry as her parents are searching for a match. But, his response was purely avoidance and insulted her by saying your degree is lower and has no value as a wife of his. At that point of time, he started putting conditions that he never mentioned to her when he used to sexually

exploit her with the promise of marriage. That is why she cut off all the relations from him and finally got married on 22nd July, 2020 to a good man from a good family background. But, she is afraid that he may disrupt her married life.

22. It was further alleged in the FIR that her husband got know about her past affairs, and from one photo, his doubt was confirmed. She had no option but to admit the truth. He warned against her any further contact with the petitioner. On 28.07.2020, she texted the petitioner that she got married and all her affairs are disclosed to her husband. If he tried to communicate with her any further, she would have no option but to commit suicide. In spite of that request, the petitioner made a fake account resembling his name and started sending continuous messages in Facebook Messenger on 22.08.2020. The fake account is named “M..... Y.....”.

23. She further disclosed in her written complaint that she is extremely insecure that he may take revenge on her marriage by disclosing her private photos and damaging her future life. She requested the petitioner to delete and destroy all the photos that he took of her, either partially or completely unclothed. But, he did not pay any heed to that. She also narrated that he threatened to destroy her family if she took any action against him. The petitioner tried all means to

drag her out of her marriage and continue his ill practice of satisfying his lust.

- 24.** From the perusal of the aforesaid contention of the opposite party no. 2, it is very clear that there was a love affair and they had physical relations prior to her marriage. Now, she is married to someone else.
- 25.** The allegation under section 376 of the IPC is grounded on the claim that the opposite party no. 2 had engaged in sexual relations with the petitioner under a promise of marriage which the petitioner never intended to fulfil. In order to establish the allegation under the above section, the law requires that the promise must be shown to be false from the inception, and the victim must have been induced into the sexual relationship solely on such false representation. In the instant case, even the FIR acknowledges a long-standing relationship. There is no allegation that at the inception of the relationship, the petitioner deceitfully induced the opposite party no. 2 into intimacy on the basis of a fabricated assurance of marriage. Rather, the complaint demonstrates that the relationship progressed voluntarily, and differences arose only when issues regarding marriage surfaced. The fact that the petitioner was allegedly reluctant to marry her, even if assumed to be true, does not establish that the promise was false from the beginning because it is an admitted fact that they had physical relations and occasionally they also took photos. She was

well aware about the consequence as she was well matured and educated.

26. Furthermore, the record reveals that during the investigation, neither the statement of the opposite party no. 2 under sections 161 and 164 of the Cr.P.C. was recorded, nor is there any independent material corroborating the allegation of alleged offences.
27. As regards the allegation under section 417 of IPC, the prosecution must show that the petitioner dishonestly induced the opposite party no. 2 to do something she would not have otherwise done. In consensual romantic relationships, the element of “dishonest inducement” must be clearly established. The material on record, even if accepted at face value, does not prima facie make out an offence of cheating.
28. With respect to the offences under the Information Technology Act, especially Section 66A, it is pertinent to note that Section 66A of the IT Act has been declared unconstitutional and struck down by the Hon’ble Supreme Court in ***Shreya Singhal v. Union of India***⁴. Therefore, the charge framed under Sections 66A (a) and 66A (b) is ex facie illegal.
29. Coming to section 66E of IT Act, which pertains to violation of privacy through capturing, publishing or transmitting images of a private

⁴ (2015) 5 SCC 1

area, the opposite party no. 2 does not allege that the petitioner ever published or transmitted any such image. Her apprehension that he might disclose photographs taken during their relationship does not constitute an offence unless there is an overt act of transmission, publication, or misuse. The complaint itself states that the photographs were taken mutually during their trips and outings, and there is nothing on record to suggest that the private image of the opposite party no. 2 had been disseminated by the Petitioner.

30. This Court is conscious that offences involving women must be approached with sensitivity and seriousness. However, judicial sensitivity cannot replace the requirement of legal sufficiency of material. When a complaint arises or lodges after the complainant has entered a new marital relationship with someone else, and the allegations pertain largely to past consensual activities and subsequent apprehensions, the Court must cautiously examine whether the criminal process is being invoked to settle personal scores or to mitigate pressures arising from matrimonial circumstances.

31. The facts in this case reflect a relationship that ended on an unpleasant note, followed by marital complications of the opposite party no. 2 and consequent misunderstandings. The materials collected during the investigation do not reveal the essential

ingredients of the offences alleged. The continuation of the criminal proceeding, therefore, would amount to misuse of the criminal justice system and cause undue prejudice to the petitioner.

32. Even from alleged fake account, this court does not find any private image of the opposite party no. 2 had been disseminated by the Petitioner or anybody else. Upon meticulous perusal of all messages, this court is of the opinion that those messages do not attract the offences punishable under Section 66 E of the I.T. Act.
33. In the light of the above discussion and analysis, this Court is of the clear view that the allegations, even if accepted in totality, do not constitute offences under Sections 376 or 417 of IPC, nor do they establish the ingredients of Section 66E of the IT Act, while charges under Section 66A are legally unsustainable in view of the decision in ***Shreya Singhal (supra)***. The order dated 16.05.2023 framing charge thus cannot be sustained.
34. Accordingly, **CRR 2783 of 2024** is, thus, **allowed**. Connected pending applications, if any, are also, thus, disposed of.
35. Consequently, the proceeding being Sessions Case No. 49 of 2021, Sessions Trial No. 02(05) of 2023 arising out of Birbhum Cyber Crime Police Station Case No. 03 of 2021 dated January 05, 2021 under Sections 376/417 of the Indian Penal Code, 1860 and Section 66 of the Information Technology Act, 2000, corresponding to G.R. Case

No. 21 of 2021, subsequently charge sheet has been submitted on January 29, 2021 being Charge Sheet No. 03 of 2021 under Sections 376/417 of the Indian Penal Code and Section 66 of the Information Technology Act pending before the Court of the Learned Additional Sessions Judge, 4th Court at Suri, Birbhum is quashed insofar as the petitioner is concerned and the order dated May 16, 2023 passed by the learned Additional Sessions Judge, 4th Court at Suri, framing charge against the petitioner under Sections 376/417 of the IPC and Section 66A(a), (b) and Section 66E of the IT Act is hereby set aside.

- 36.** Let a copy of this Judgment be sent to the learned Trial Court for information.
- 37.** Interim order, if any, stands vacated.
- 38.** Case diary, if any, be sent back to the learned counsel for the State.
- 39.** Parties shall act on the server copies of this Judgment uploaded on the website of this Court.
- 40.** 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)