

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

Present:-

HON'BLE JUSTICE CHAITALI CHATTERJEE DAS.

CRR 2801 OF 2022

MOHANLAL CHOWDHURY & Ors.

VS

THE STATE OF WEST BENGAL & ANR.

For the Petitioners : Mr. Md. Sanbir Ahmed, Adv.
Mr. Shraman Sarkar, Adv.

For the State : Ms. Anasuya Sinha, Adv.
Mr. Karan Bapuli, Adv.

Last heard on : 26.11.2025

Judgement on : 23.12.2025

Uploaded on : 23.12.2025

CHAITALI CHATTERJEE DAS, J. :-

1. This application under Section 482 of the Code of Criminal Procedure, 1973 has been filed by the present petitioners for quashing of entire proceedings pending before the learned Additional Chief Judicial Magistrate at Jangipur being G.R case no. 2536 of 2019 arising out of Shamsherganj Police Station

case no.298 of 2019 dated 4.12.2019 under Section 498/313/323/34 of the Indian Penal Code, 1860 and Section 3/4 of Dowry Prohibition Act, 1961.

Brief fact of the case

2. The marriage between the petitioner no.4 and Opposite Party no. 2 was on March 21, 2017 and they lived the conjugal life at their matrimonial home. The marriage was duly consummated. The Opposite Party no. 2 became pregnant and on July 23, 2017 was admitted to Murshidabad Medical College and Hospital with labour pain and she gave birth to a still born child in the hospital and was discharged on July 27, 2017. After she was discharged the parents of the Opposite Party no. 2 to the paternal house, and since then she is living at her matrimonial house. The petitioner stopped communication with Opposite Party no.2 as he and his family members were blamed for her delivery of a dead child. On October 22, 2019, the Opposite Party no.2 through her advocate sent a letter to petitioner no.4/husband for restitution of conjugal life where she did not make allegation against the petitioner no. 4 over the birth of the dead child. Therefore petitioner no. 4 did not respond.
3. On December 4, 2019, the Opposite Party no.2 lodged the complaint against all the petitioners with false and concocted stories. The police after investigation filed charge-sheet on March 17, 2020 under Section 498A/313/323/34 of the Indian Penal Code read with Section 3/4 of the Dowry Prohibition Act, 1961. The petitioners have come before this Court for quashing of the said proceeding.

Submissions

4. The learned Advocate appearing on behalf of the petitioner has filed a written note of argument and the argument advanced before this Court is that there are no allegations made in the complaint to make out a case under Section 498 A, of the code and Section 3/4 of the DP Act. At the outset it is submitted that on June 13, 2019, the father of the Opposite Party no. 2 gave a declaration that she was reckless and her father gave her marriage with the petitioner no. 4, but after marriage, she used to demand money from her father, and as a result, the father of the Opposite Party no. 2 oust her as his daughter. It is further submitted that the present FIR failed to show any incident of torture meted out to the Opposite Party no. 2 by the petitioners and the allegations are general and omnibus in nature and on the basis of the same, no prudent person can come to a conclusion that any offence under Section 498A has occurred.
5. It is also argued that the declaration made by the father of the Opposite Party no.2 show that she out of her own volition, demanded money from her father, and such illegal demand left her father with no other option but to oust her from his property by virtue of a notarise declaration. The Opposite Party no. 2 , being ousted from her father's property sent a letter to the petitioners for taking her back, but as the petitioners did not give any reply to the said letter, the complainant lodge the complaint with an ulterior motive and to wreak vengeance and harassment against the petitioners. It is settled principle of law that criminal law cannot be set into motion for that purpose and any such

complaint will be abuse of process of law and liable to be quashed under Section 482 of Code of Criminal Procedure ,1973.

6. Further argument of the petitioner is that the charge-sheet filed in connection with the present case is bereft of any material and evidence, and the same is not sufficient to take cognizance of the offences referred to. The allegations levelled in the impugned complaint suffers from antagonistic contradictions and inherent absurdity. The allegations taken to be true do not make out any cause of action, giving rise to initiation of a investigation under chapter XII of the Cr.Pc. The learned advocate has relied upon the decision **of *Kahkashan Kausar alias Sonam vs State of Bihar*¹, *Mamidi Anil Kumar Reddy versus State of Arunachal Pradesh & another*², *Geeta Mehrotra and Anr vs State of Uttar Pradesh and another*³, *Preeti Gupta and Anr. vs State of Jharkhand and Anr*⁴ .**

7. The case of the Opposite Party no. 2 on the other hand is that after the marriage of the complainant, she was subjected to torture both physically and mentally by her husband and in-laws over the issue of demand of dowry. On July 23, 2019, she was assaulted by fist, blows and kick by her husband and other in-laws and was driven out from her matrimonial house. She was admitted at Beherampur Matrisadan Hospital and she gave birth to a dead child and lastly on November 3, 2019 at about 15 hours, she was tortured by her husband and other in-laws at her father's house.

8. It is the submission of the learned advocate representing the Opposite Party no. 2 that for the purpose of quashing of a criminal proceeding, content of the

¹ (2022) 6 SCC 599

² 2024 SCC online SC 127

³ (2012)10 SCC 741

⁴ (2010)7 SCC 667

written complaint and/or F.I.R, Charge-sheet and the statements of the witnesses recorded under Section 161, Cr.Pc, 1973 will have to be look into by this Court, and if on consideration thereof is found that the ingredients of the offences alleged have been prima facie made out, the criminal proceeding cannot be legally permitted to be quashed and the parties to the lis will have to be relegated to the Trial Court for facing the criminal trial.

9. It is submitted that in the present case, the said statements of the witnesses and the content of the written complaint do not call for invoking the power of 482 Cr.Pc to quash the proceeding on the other hand, the petitioners must face the criminal trial and therefore this revisional application is liable to be dismissed. It is further argued that the essential ingredients of 498A, 313, 323 and 34 of the Indian Penal Code and Section 3/4 of D.P Act are totally established and or made out and disputed questions of fact have been raised in this revisional application by the petitioners as ground for quashing the criminal proceeding, but the position in law is that this court cannot legally interfere with the state proceeding by invoking it's inherent power and the proceeding cannot be quashed merely on asking by the petitioner at the threshold.

10. The learned Advocate has further submitted that it is the well-established legal proposition that if the ocular evidence and medical evidence are in conflict, ocular evidence will prevail and in the present case, both the statements under Section 161 Cr.Pc and medico- legal papers are available and on a dispassionate consideration of this legal position, the only resultant effect will be nothing but dismissal of this criminal revision application.

11. The learned Advocate representing the state submits that the marriage was of 2017 and the complaint was lodged on July 2019 that is within two years of marriage with specific allegation of dowry demand. The complainant was nine month pregnant and she gave birth to a dead child with the allegation of torture inflicted upon her, and therefore when the charge-sheet has been submitted, which prima facie proves the case against the present petitioners, they must be relegated to the Trial Court for adducing evidence and to dig out the truth. It is also submitted that the declaration of the father of the de-facto complainant was never a part of the case diary and in course of investigation nothing was informed to that extent and hence cannot be relied upon by this Court at this stage. Hence prayed for the dismissal of the criminal revision application.

Analysis

12. Heard the submissions before delving into the bottom of the case, at the outset, it is necessary to look into the most vital document of this case on the strength of which the husband and other in-laws, including the distant in-laws are also roped in for committing an offence under Section 498A/313/323 /34 of IPC. The complaint was lodged under Section 156(3) of Cr.Pc. in respect of the incidents on July 23, 2019 and November 3, 2019 when she was driven out from her matrimonial home after being abused physically by the petitioners. It was alleged that at the time of marriage, Rs 5 lakhs, 10 bhories of gold Jewelleries, and other valuable articles/furniture were given as dowry, and she went to her matrimonial house. She was harassed with the quality of the jewelleries and the Dowry articles and demanded further Rs 1 lakh for the purpose of the jewellery shop of the husband. She further alleged about

outraging modesty against her father-in-law in absence of her husband and on intimation to the husband and other family members they did not raise protest and insisted her to continue the same being a family custom. Not only that she was informed that her father-in-law had physical relation with her sister-in-law and also husband involve with Molly Das. She alleged against one Bishu Sarkar, who also molested her and when she informed the same to her parents, they came to her matrimonial home and paid ₹50,000 to the petitioners and requested them to behave properly with her.

- 13.** The complaint further discloses that during her pregnancy also she was tortured but her parents advised her to continue with her conjugal life by accepting everything. On July 23, 2019 on demand of money, she was inflicted with torture by all the family members./in-laws with fist, kick and blow at her lower abdomen and she shouted, and then the neighbours came and rescued her from their clutches and also informed her parents, and in their presence, the husband and all other in-laws drove her out from her matrimonial house. Since she suffered severe abdominal pain, she was admitted to Baharampur Matri Sadan Hospital, where she gave birth to a still born baby because of the torture. The complaint further discloses that through her advocate she sent a letter for settlement with her husband on November 3, 2019 in order to revive her matrimonial life and around 3 PM in presence of all the witnesses in the meeting, all the in-laws/the accused again physically assaulted her, and she suffered pain and then treated by the local doctor. After that she informed in writing to the Samarser Ganj Police Station but no action was taken. She sent the intimation through registered post to the OC Shamsheer Ganj and SP Murshidabad, but having no result she lodged the instant complaint.

14. The accused persons named in the FIR are petitioner no.1 , the father-in-law, petitioner no.2 the mother-in-law, petitioner no.3 the sister-in-law(ja), petitioner no.4 husband, petitioner no.5 the tenant and petitioner no.6 is the brother of the petitioner no. 3. The letter of the complainant sent through the advocate addressed to her husband discloses a different version of her peaceful matrimonial life with the husband with no allegation of torture .She also did not accuse the husband or the in laws about the delivery of a still born baby but she felt deprived because of the indifferent attitude of the husband for not making any communication with the de-facto complainant.

15. In this case, the charge-sheet has been submitted and therefore, from the case diary placed before this Court is perused in order to dig out the truth. So far the role attributed by the parents of the complainant are concerned no specific allegations are found excepting the physical and mental torture by all the in-laws, including the husband on 23rd of July 2019, when she was driven out when she was nine months pregnant . The case of the petitioner of torture and the delivery of dead child as a result of torture do not find legs to stand on in view of the lawyer's notice given to the husband .None of the parents disclosed anything about the sexual favour demanded by the father in law and or they had to visit the house in order to advise their daughter to bear everything in view of the her pregnancy . The medical paper being the bed head ticket apparently shows that that it was a case of MSB and she was carrying a dead fetus which was decomposed within the womb and it was removed.

16. The learned Advocate tried to impress upon the Court that MSB is a condition which was caused due to the torture inflicted upon her. The MS B

Macerated Still Birth is a condition where fetus has been deceased in uterus for a period of time, resulting degenerative changes like skin discolouration, peeling and softening .The letter collected by the I.O in course of investigation transpires about previous USG of the petitioner and as per such report, there was no fetus activity on admission. The fetal heart sound was not found which proves that she was already carrying a dead baby at the time of admission. The point falls for consideration is that whether the de facto complainant was carrying a dead baby because of her medical issue or because of the physical assault inflicted on her by the present petitioners. The medical papers as found from the case diary is absolutely silent about any such physical torture inflicted on her or any history of physical assault immediately on the same day or any previous day. The condition of the fetus also prima facie shows about the condition prevailing and not that because of sudden injury the baby died. Apparently, the written complaint is absolutely silent about any specific details of the physical assault or the demand made by the petitioners including the sister-in-law, her husband, the tenant and the brother of the husband.

- 17.** The allegations are otherwise general and omnibus in nature in absence of any specific overt act or any role attributed by them. The first date of assault was in the month of July 2019 and after few months on 3.11.2019 and the complaint was lodged on 22.11.2019 when allegation of physical torture was made against all the in-laws. No other injury report is there to show that 6 persons altogether assaulted the de facto complainant and she sustained any other injuries and in the bed head ticket no history of assault was mentioned neither any injuries were found when she was there at the hospital. Therefore, the allegations of physical torture by multiple family members seems unlikely

to be accepted at face value ,and also lack of immediate action do not inure in favour of the de-facto complainant. In the case of **Preeti Gupta and another versus State of Jharkhand and another**⁵.considering the rampant misuse of provision of 498A I.P.C observed that majority of the complaints under section 498A I.P.C are filed either on the advice or with the concurrence of the learned Members of the bar who belong to a noble profession and must maintain noble traditions and should treat every complaint under Section 498A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem.

18. It was further observed that *‘It is a matter of common experience that most of these complaints under Section 498A I.P.C 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 time of the complaint, the implications and consequences are not properly visualised by the complainant that such complaint can lead to insurmountable, harassment, agony, and pain to the complainant, accused and his close relations’.*

19. In the decision of **Geeta Mehrotra and another versus State of Uttar Pradesh and another**⁶, it was held that High Court should have quashed the complaint arising out of a matrimonial dispute, wherein all the family members had been roped in to the matrimonial litigation. The Hon’ble Apex

⁵ (2010) 7 SCC 667

⁶ (2012) 10 SCC 741

Court took note of the decision of **G.V Rao versus L.H.V Prasad and others**⁷.
in paragraph 12.;

‘12. There has been an outbreak of matrimonial disputes in recent times. Marriage is a secret ceremony, the main purpose of which is to enable the young couple to settle down in life and leave peacefully but little matrimonial skirmishes suddenly erupt, which often assume serious proportions, resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about approach are rendered helpless on their being arrayed as an accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their default and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law, where it takes years and years to conclude, and in that process, the parties lose their young days in chasing their cases in different court.’

20. In the said case, there was no specific allegation against the appellant/ accused (sister, and brother of the husband) and or allegations against them that they demanded any dowry. It was held that casual reference to a large number of members of the husband’s family without allegation of active

⁷ (2000) 3 SCC 693

involvement would not justify taking cognizance against them and subjecting them to trial. In the instant case, even the complaint is taken on the face value, no specific allegations can be found against any of the accused persons, less said about the petitioner no. 3, 5 and 6. The allegation of outraging modesty is absolutely vague and the manner in which the story has been narrated there, on the face of it appears to be vexatious and improbable. In no family, such custom can prevail to allow the daughter-in-law to enter into a physical relationship with her father-in-law and interestingly despite intimating, such egregious conduct of the father-in-law, to the parents of the de-facto complainant they instead of taking any steps advised her to accept everything in order to save the matrimonial tie, on coming to said matrimonial house and made request to the in-laws to behave properly. This statement made on affidavit in the petition of complaint filed under Section 156(3) Cr.Pc manifest the maliciousness on the part of the complainant and the extent of levelling allegations in order to rope in her in-laws .

21. The complaint lodged did not annex the intimation or complaint given by the de-facto complainant to the Police authorities and the learned Magistrate also did not ascertain whether the complaint fulfilled the required criteria before forwarding the same for investigation.

22. In order to attract section 498A of the Indian penal code the essential conditions are a woman has to be married and subjected to cruelty and such cruelty consisted of ; 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 her relations to meet the lawful demand. The woman was subjected to such cruelty by her husband or any relation of her husband.

23. In the decision of ***Kahkashan Kausar @ Sonam vs State of Bihar***⁸, the Supreme Court held as follows ;

‘Having produced the relevant facts and contentions made by the appellants and respondent, in our considered opinion, the foremost issue which requires determination in the instant case is whether allegations made against the in-laws/appellants are in the nature of general omnibus allegations and therefore liable to be quashed.¹² Before we deal into a greater detail on the nature and content of allegations made, it becomes pertinent to mention that incorporation of section 498A A of IPC was aimed at preventing cruelty, committed upon a woman by her husband and her in-laws, by facilitating rapid state intervention. However, it is equally true, that in recent times, matrimonial litigation in the country has also increased significantly, and there is greater disaffection and friction surrounding the institution of marriage, now, more than ever. This has a recited in an increased tendency to employ provisions such as 498A IPC, as instruments to settle personal scores against the husband and his relatives’.

24. In this case, it was held by the Supreme Court on perusal of the case diary, and the charge-sheet that the same did not prima facie make out a case of cognizable offence against the accused/petitioners and there was no materials for proceeding against them towards trial and consider the same is a fit case

⁸ (2022)6 SCC 599

where inherent power of the Court should be exercised. It is settled propositions that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and also in the rare of rare cases. It has been observed by the Supreme Court that the extraordinary or inherent powers do not confer and arbitrary jurisdiction on the court to act according to its whims and caprice and the court will not go to the question of reliability and proof of allegations made in the complaint at the same time, it has been repeatedly directed that in order to prevent the abuse of process of law and in order to secure justice, the power should not be exercised to stifle legitimate prosecution but courts, failing to use the power for advancement of justice can also lead to grave injustice.

Conclusion

25. Therefore upon conspectus of the entire facts and circumstances and the law laid down this Court finds from nature of allegation levelled against the parents-in-law in this case do not attract any of the ingredients to constitute an offence under Section 498A of Indian Penal Code and more so the false and frivolous allegations against the father-in-law, which are apparent on the face of the complaint lodged under Section 156 (3) of Cr.Pc left this court to observe that the proceeding pending against the petitioner no.1 and 2, so far the allegation of 498A/313/323 /34 IPC, the same is not maintainable and is liable to be quashed. So far the petitioner no 4 ,the husband since the allegations disclosed of certain materials which can only be answered in course of trial hence he must face the trial and accordingly the proceeding under Section 498A /323 IPC against him will remain pending. Further on

examining the facts of the case and the F.I.R it can be unequivocally declared that no ingredients are found to constitute any case or offence against the petitioner no. 3, 5 and 6 which can attract 498A or 323 or 313 /34 IPC and the proceeding should be quashed against them.

26. In view of the above this criminal revisional application stands allowed in part with the above directions. Accordingly all other connected applications if any stand disposed of.

27. 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.]

सत्यमेव जयते
Calcutta