

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

**Present:**

**The Hon'ble Justice Ananya Bandyopadhyay**

**C.R.R. 2083 of 2010**

**Harpreet Singh & Ors.**

**-Vs-**

**The State of West Bengal & Anr.**

For the Petitioners : Mr. Soham Banerjee  
(Amicus Curiae)

For the State : Mr. Avishek Sinha

Heard on : 23.04.2024, 24.05.2024, 04.10.2024

Judgment on : 24.04.2025

**Ananya Bandyopadhyay, J.:-**

1. The instant revisional application has been filed by the petitioner praying for quashing of proceedings in B.G.R. Case No.5930/2008 (T.R. No.1751/2009) pending before the Learned Judicial Magistrate, 3<sup>rd</sup> Court, Alipore, South 24-Parganas, arising out of Behala Police Station Case No.533 of 2008 dated 19.12.2008 under Sections 498A/406/34 of the Indian Penal Code all orders passed therein.
2. The contentions of the petitioner in the instant revisional application comprised the following:-
  - i. Petitioner no.1 was the husband of the opposite party no.2. The petitioner nos.2 and 3 were the father-in-law and mother-in-law of the opposite party no.2; petitioner nos.4 and 6 were married

sisters-in-law and petitioner no.7 was the unmarried sister-in-law of the opposite party no.2. Petitioner no.5 was the brother-in-law of the opposite party no.2 being the husband of petitioner no.4.

- ii. The petitioner no.1 and the opposite party no.2 were friends and they shared a cordial relationship.
- iii. On one occasion the petitioner no.1 found that the opposite party no.2 was extremely depressed because of her ensuing marriage which was fixed by her parents and sought for help from the petitioner no.1.
- iv. The opposite party no.2 proposed that she would be able to overcome of the aforesaid problem if the petitioner no.1 entered into an agreement of marriage with her which would be a conditional marriage of a temporary nature and once the situation would be within her control, the said marriage would be dissolved amicably by way of a decree of divorce by mutual consent.
- v. The petitioner no.1 was moved by the grief of the opposite party no.2 and agreed to help her.
- vi. Subsequently on 14.05.2005, marriage between petitioner no.1 and opposite party no.2 was solemnized under the provisions of Special Marriage Act, 1954.
- vii. In view of the arrangement made between the parties, the petitioner no.1 and the opposite party no.2 never lived together as husband and wife and the marriage was never consummated.
- viii. Thereafter, petitioner no.1 on several occasions requested the opposite party no.2 to file a petition for divorce by mutual consent

as was agreed between them before the registration of their marriage.

- ix. In spite of repeated requests, the opposite party no.2 did not pay any heed to such proposal and expressed her desire to continue with her relationship with the petitioner no.1 and flatly refused to file an application for divorce.
- x. Finding no other alternative, the petitioner on 18.09.2008 was constrained to file an application under Section 25(iii) of the Special Marriage Act read with Section 9 of the Indian Contract Act being Mat Suit No.1803 of 2008 before the Learned District Judge at Alipore praying for a decree of nullity in respect of the aforesaid marriage, inter alia, on the ground that consent of the petitioner no.1 in respect of the aforesaid marriage was obtained by fraud. The said matter was pending before the Learned Judge.
- xi. After being served with a copy of the aforesaid application the opposite party no.2 filed a written statement.
- xii. In the written statement opposite party no.2 stated that the said marriage was solemnized with the consent of the father of the opposite party no.2 and the petitioner no.1 had easy access to the parental home of the opposite party no.2 where she had been living even after the said marriage.
- xiii. Subsequently the petitioners moved to their place of residence and they came to learn that warrant of arrest had been issued against them in connection with a criminal case.
- xiv. On enquiry they came to learn that on 19.12.2008 the opposite party no. 2 lodged a written complaint with the officer-in-charge,

Behala Police Station against the present petitioners, inter alia, alleging that on 14.05.2005 the opposite party no. 2 was married to petitioner no.1 in accordance with the provisions of Special Marriage Act. At the time of the said marriage the parents of opposite party no. 2 gifted her gold ornaments, wooden furniture, other valuable articles and further cash of Rs.55,000/-. Thereafter she went to the matrimonial home and entrusted all the articles to petitioner no.1. From the very inception of the matrimonial life, the petitioner ill-treated her and created pressure upon her to bring more money from her parents and also attempted to kill her. However, she managed to escape and save her life. Ultimately on 28.02.2008, the petitioners mercilessly assaulted her and drove her out from the matrimonial home. It was further alleged that during the course of her marital life she became pregnant but the petitioners forcibly terminated such pregnancy. Subsequently the father of opposite party no.2 expired on 15.06.2008 and she being accompanied by her mother went to meet the petitioners at Jamshedpur but they were driven out after being assaulted and abused.

3. On the basis of the aforesaid written complaint, the instant case Behala Police Station Case No.533 of 2008 dated 19.12.2008 under Sections 498A/406/34 of the Indian Penal Code was registered for investigation.
4. Subsequently after completion of investigation, the investigating agency submitted charge-sheet being Charge-sheet No.119/09 dated 30.05.2009 under Sections 498A/406/34 of the Indian Penal Code against the present petitioners.

5. Thereafter the charge-sheet along with its allied documents were submitted before the Learned Chief Judicial Magistrate at Alipore and by an order dated 06.06.2009 the Learned Magistrate was pleased to take cognizance and was further pleased to issue warrant of arrest against the present petitioners.
6. Subsequently, on 21.10.2010 the petitioners surrendered before the Learned Magistrate and were enlarged on bail on that very day.
7. In the meantime the opposite party no.2 took out an application under Section 125 of the Code of Criminal Procedure along with the application of interim maintenance before the Learned Chief Judicial Magistrate, Alipore on 08.01.2009.
8. The application under Section 125 of the Code of Criminal Procedure the opposite party no.2 categorically stated that the petitioners' family belonged to Sikh community and hence she apprehended that she might not be allowed to stay in their house. As a result even after marriage she had been residing in her parental home and petitioner no.1 used to visit her occasionally at her parental home.
9. It was abundantly clear from her contention in the application under Section 125 of the Code of Criminal Procedure that she had never resided in her matrimonial home and as such the allegations included in the First Information Report were out and out false and had no basis whatsoever.
10. Further it was stated in the application under Section 125 of the Code of Criminal Procedure that during such stay in her parental home she became pregnant but subsequently she voluntarily terminated such pregnancy, even though reluctantly as per the desire of petitioner no.1.

In view of such a stance the allegation of causing miscarriage by perpetrating torture upon the opposite party no.2 as stated in the First Information Report was wholly untenable.

11. The petitioner no.1 already filed show-cause in respect of the application under Section 125 Code of Criminal Procedure.
12. Ultimately by an order dated 12.05.2010 passed by the Learned 8<sup>th</sup> Judicial Magistrate, Alipore the aforesaid proceeding under Section 125 of the Code of Criminal Procedure had been dismissed for non-prosecution.
13. Mere reading of the petition of complaint it would transpire that the instant case had been lodged by the opposite party no.2 after a protracted delay which she failed to explain.
14. The opposite party no.2 never stayed at the matrimonial home and as such the petitioners had no occasion to commit the offences as alleged by the opposite party no.2.
15. In the application under Section 125 of the Code of Criminal Procedure the opposite party no.2 categorically stated that even after marriage she had been residing in her parental home and petitioner no.1 used to visit her occasionally in her parental home.
16. The admissions of the opposite party no.2 in the proceeding under Section 125 clearly exonerated the petitioners from any criminal liability arising from the allegations levelled against them by the opposite party no.2.
17. The Learned Advocate for the petitioners submitted as follows:-
  - i. The petitioners herein had been motivatedly dragged in the instant case just to harass and humiliate them before the society.

- ii. The opposite party no.2 never stayed at the matrimonial home and as such the petitioners had no occasion to commit the offences as alleged by the opposite party no.2.
- iii. In the application under Section 125 of the Code of Criminal Procedure the opposite party no.2 categorically stated that even after marriage she had been residing in her parental home and petitioner no.1 used to visit her occasionally in her parental home.
- iv. It was abundantly clearly from her contention in the application under Section 125 of the Code of Criminal Procedure that she had never resided in her matrimonial home and as such the allegations included in the complaint were out and out false and had no basis whatsoever.
- v. It was stated in the application under Section 125 of the Code of Criminal Procedure that during such stay in her parental home she became pregnant but subsequently she voluntarily terminated such pregnancy, though reluctantly as per the desire of petitioner no.1.
- vi. This Hon'ble Court while exercising jurisdiction under Section 482 of the Code of Criminal Procedure was duly empowered to look into admitted documents of unimpeachable nature and as such this Hon'ble Court could look into the documents in the proceeding under Section 125 of the Code of Criminal Procedure filed by the opposite party no.2.
- vii. The admissions of the opposite party no.2 in the proceeding under Section 125 clearly exonerated the petitioners from any

criminal liability arising from the allegations levelled against them by the opposite party no. 2.

- viii. A bare perusal of the complaint would show that it did not contain any averment with regard to the ingredients of offence under Section 406 of the Indian Penal Code and in view of the same taking of cognizance by the Magistrate for the aforesaid offence was not sustainable.
  - ix. The instant case if allowed to continue should amount to severe travesty of justice and prejudice to the petitioner.
  - x. It was imperative in the interest of justice that the impugned proceeding be quashed.
18. The Learned Advocate representing the State has placed the entire case diary for the perusal of this Court and submitted at the nascent stage the proceedings should not be quashed since the charge-sheet had already been submitted against the petitioners.
  19. The records placed by the Learned Advocate representing the State revealed the petitioner no. 1 to have instituted a divorce proceeding being Mat. Suit No. 1803 of 2008 in the Court of Learned District Judge at Alipre under Section 25(ii) of the Special Marriage Act, 1954 read with Section 9 of the Indian Contract Act, 197 on 18.09.2008.
  20. The opposite party no. 2 filed a written statement to the aforesaid suit renumbered as Mat. Suit No. 4/2009 on 04.11.2009. In the intervening period, the opposite party no. 2 lodged the complaint on 19.12.2008 alleging an incident earlier occasioned. Moreover, her version in an application filed under Section 125 of the Cr.P.C. inferred her absence in the matrimonial home.

21. The allegations of the opposite party no. 2 against the petitioners are general and omnibus in nature and indisputably a counter blast to the suit for obtaining divorce filed by the petitioner no. 1. If the opposite party had been subjected to inhuman and unbearable torture, nothing could have prevented her to file a complaint earlier. The proclivity to drag and harass the family members of the husband implicating them in false criminal cases is rampant and the instant complaint is not exception.
22. In view of the above discussions, the proceedings in B.G.R. Case No.5930/2008 (T.R. No.1751/2009) pending before the Learned Judicial Magistrate, 3<sup>rd</sup> Court, Alipore, South 24-Parganas, arising out of Behala Police Station Case No.533 of 2008 dated 19.12.2008 under Sections 498A/406/34 of the Indian Penal Code all orders passed therein are quashed.
23. Under such facts and circumstances, the instant criminal revisional application being C.R.R. 2083 of 2010 is allowed.
24. Accordingly, C.R.R. 2083 of 2010 stands disposed of.
25. There is no order as to costs.
26. Case diary, if any, be returned forthwith.
27. Let the copy of this judgment be sent to the Learned Trial Court as well as the police station concerned for necessary information and compliance.
28. All parties shall act on the server copy of this judgment duly downloaded from the official website of this court.

**(Ananya Bandyopadhyay, J.)**