

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. 2676 of 2021

Ratan Kumar Das @ Ratan Das & Ors.

Versus

The State of West Bengal & Another

For the Petitioners : Ms. Monika Kalra, Adv.
Mr. Shatadru Lahiri, Adv.
Mr. Wasim Akram, Adv.
Mr. Shantam Gulati, Adv.
Mr. Saswata Tripathi, Adv.
Ms. Prerana Vishwas, Adv.

For the Opposite Party No. 2 : Mr. Saibal Mondal, Adv.
Ms. Sonali Ghosh, Adv.
Mr. Sarthak Mondal, Adv.

For the State : Mr. Imran Ali, Adv.
Ms. Debjani Sahu, Adv.

Heard on : 20.06.2025

Judgment on : 09.07.2025

Ajay Kumar Gupta, J:

1. Petitioner Nos. 1 and 3 are the brothers-in-law of the complainant/opposite party no. 2 and petitioner no. 2 is the wife of one Nukul Das, who is the brother-in-law of the complainant/opposite party no. 2. They have filed revisional application under Section 482 of the Code of Criminal Procedure, 1973 (in short 'CrPC') for seeking quashing of the proceeding being G.R. Case No. 647/2020 arising out of Amdanga Police Station Case No. 160/2020 dated 01.04.2020 under Section 498A of Indian Penal Code, 1860 as well as the Charge Sheet being Charge Sheet No. 346/2020 dated 30.06.2020 under Section 498A of the Indian Penal Code, 1860 and all orders passed therein, pending before the Learned Additional Chief Judicial Magistrate, Barasat, North 24 Parganas.

2. The factual matrix, giving rise to filing of present Criminal Revisional application, is that a complaint has been lodged by Opposite Party No.2, Tapati Das against her husband and in-laws alleging that she married Joydeb Das according to Hindu Rites and Customs. Since after marriage, she was subjected to torture both mentally and physically by her husband and in-laws. On 31.03.2020, at about 12.00 hrs., the accused persons abused her in filthy language and when she raised objection, they assaulted the complainant and drove her away from her matrimonial house.

3. On the basis of said complaint, an FIR was lodged being Amdanga Police Station Case No. 160/2020 dated 01.04.2020 under Section 498A of Indian Penal Code, 1860 against her husband and the present petitioners and investigation was initiated.

4. Upon completion of investigation, Charge Sheet being Charge Sheet No. 346/2020 dated 30.06.2020 under Section 498A of the Indian Penal Code, 1860 has been submitted against husband and the present petitioners.

5. The specific case of the present petitioners is that they are innocent and are in no way connected with the alleged offence. They reside separately and do not share common mess with the complainant and her husband and were not involved in their day-to-day matrimonial life.

6. It is further contended that the complainant has also filed a complaint under the Protection of Women from Domestic Violence Act, 2005 being Case No. C/684/2020 before the Competent Court only against her husband. None of the present petitioner were arraigned as parties and no allegation made against them in the said proceedings. The petitioners alleged that the allegations levelled in the written complaint against them are out and out false. Hence, this application for quashing of the proceedings.

SUBMISSION ON BEHALF OF THE PETITIONERS:

7. Learned counsel appearing on behalf of the petitioners vehemently argued and submitted that the opposite party no. 2 has falsely implicated the petitioners without disclosing the essential ingredients as required to establish an offence under Section 498A of the IPC and further the allegations levelled against the present petitioners are general, vague and failed to attribute any specific role of the petitioners with regard to the allegations of cruelty.

8. It was further submitted that during investigation, no substantial evidence was collected against the present petitioners to implicate them for an offence punishable under Section 498A of the IPC. In absence of such substantial evidence, the accusations of the de-facto complainant apparently found concocted, fabricated and with mala fide intention only to harass the petitioners though they are no way involved in her day to day matrimonial life. Therefore, allowing such proceeding to be continued in absence of any substantial evidence against the present petitioners would tantamount to abuse of process of law and for securing the ends of justice, the proceeding may be quashed otherwise petitioners would be highly prejudice. Learned counsel has placed reliance of judgments as under: -

i. Tabrez Khan Alias Guddu and Ors. Vs. State of Uttar Pradesh and Anr.¹;

ii. Dara Lakshmi Narayana and Ors. Vs. State of Telangana and Anr.².

SUBMISSION ON BEHALF OF THE OPPOSITE PARTY NO. 2:

9. Learned counsel appearing on behalf of the opposite party no. 2 vehemently opposed the prayer for quashing of the proceeding and further submitted that from the date of marriage, the husband and her in-laws including the petitioners inflicted physical and mental torture upon her and finally, they have assaulted and forcibly driven out from the matrimonial home along with her 11-months' child. Though, the marriage took place in the year 2017, she refrained from lodging any FIR initially in the hope that the situation will improve after passage of time. However, when they have assaulted and the situation has not been improved rather aggravated when it turn to assault, she has compelled to lodge complaint against the present petitioners and her husband. Therefore, this case is required to be tried by the Learned Trial Court for proper adjudication. Even after investigation, a prima facie case has been established against the present petitioners under Section 498A of the

¹ (2019) 4 SCC 615;

² (2025) 3 SCC 735.

IPC and when the evidence was collected during the investigation, this Court may not embark upon the evidence without trial. Therefore, the Revisional application is liable to be dismissed.

SUBMISSION ON BEHALF OF THE STATE:

10. Learned counsel appearing on behalf of the State also concurred the submission of the learned counsel appearing on behalf of the opposite party no. 2 and further submitted that the FIR disclosed the ingredients of the offence punishable under Section 498A of the IPC. Accordingly, an FIR was lodged and, subsequently, after investigation, it appears prima facie case against all the accused persons under Section 498A of the IPC. During investigation, statements were recorded under Section 161 of the CrPC and from perusal of the Section 161 statements; it reveals that there are sufficient materials against the present petitioners. Accordingly, the Revisional application is liable to be dismissed.

DISCUSSION AND FINDINGS BY THIS COURT:

11. Considering the arguments and submissions made by the parties and on perusal of the materials available in the case diary and documents annexed with the Revisional application, this Court finds that the opposite party no. 2 alleged for inflicting mental and physical cruelty upon her by the accused persons. However, this Court does

not find any specific reason for her tortured by her in laws from the very beginning of her marriage.

12. It further appears from the record that the complainant/opposite party no. 2 has filed another proceeding under Section 12 of the PWDV Act, 2005 after lodging FIR and same is pending before the Learned Judicial Magistrate, 2nd Court at Barasat only against her husband. No allegation was made or any averment made in the application regarding domestic violence by the present petitioners in any manner. She has restricted the allegations of domestic violence only against her husband. Though, her allegation is that she was inflicted torture by all the accused persons physically and mentally and finally driven out her from her matrimonial home. During the course of investigation, the Investigating Officer collected the Injury Report. A perusal of the said report reveals that the allegations of assault made against the present petitioners appear to be an attempt to falsely implicate them, without assigning any specific or individual role to any of the present petitioners herein.

13. From the perusal of the FIR and the statements recorded under Section 161 during investigation, it reveals the allegations are general, omnibus and lacking in particulars. No details have been given with regard to the mode and manner of either mental or physical torture by the Petitioners. In such situation, a person cannot

be permitted to face the trial. The Hon'ble Supreme Court, time and again, reiterated that the proceedings against any accused should not be allowed to continue unless and until there is specific allegation against the accused.

14. When there is no specific role attributed or allegation levelled against the particular accused and no details regarding date, time and manner of such physical assault has been mentioned, then such proceeding should be nipped in the bud. Otherwise, the accused would be greatly prejudiced. Continuation of such criminal proceeding would put the accused to great oppression and prejudice.

15. It would be apposite to refer a recent decision of the Hon'ble Supreme Court in ***Dara Lakshmi Narayana and Ors. Vs. State of Telangana and Anr.*** where the Hon'ble Supreme Court specifically dealt with the case involving offence under Section 498A of IPC and whether the same are attracted to vague allegations raised by the complainant/opposite party no. 2/wife and finally observed as follows in paragraph nos. 27 and 30 as under: -

“27. A mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is a well-recognised fact, borne out of judicial experience, that there is often a tendency to implicate all the

members of the husband's family when domestic disputes arise out of a matrimonial discord. Such generalised and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis for criminal prosecution. Courts must exercise caution in such cases to prevent misuse of legal provisions and the legal process and avoid unnecessary harassment of innocent family members. In the present case, Appellants 2 to 6, who are the members of the family of Appellant 1 have been living in different cities and have not resided in the matrimonial house of Appellant 1 and Respondent 2 herein. Hence, they cannot be dragged into criminal prosecution and the same would be an abuse of the process of the law in the absence of specific allegations made against each of them.

30. The inclusion of Section 498-A IPC by way of an amendment was intended to curb cruelty inflicted on a woman by her husband and his family, ensuring swift intervention by the State. However, in recent years, as there have been a notable rise in matrimonial disputes across the country, accompanied by growing discord and tension within the institution of marriage, consequently, there has been a growing tendency to misuse provisions like Section 498-A IPC as a tool for unleashing personal vendetta against the husband and his family by a wife. Making vague and generalised allegations during matrimonial conflicts, if not scrutinised, will

lead to the misuse of legal processes and an encouragement for use of arm-twisting tactics by a wife and/or her family. Sometimes, recourse is taken to invoke Section 498-A IPC against the husband and his family in order to seek compliance with the unreasonable demands of a wife. Consequently, this Court has, time and again, cautioned against prosecuting the husband and his family in the absence of a clear prima facie case against them.”

16. This Court is conscious of the settled legal position that the FIR is not expected to be an encyclopaedia which indicates each and every minute's details. However, during investigation allegations should be corroborated by substantial evidence. Upon perusal of the FIR it shows that the allegations made by the complainant are that the complainant got married to Joydeb Das according to Hindu Rites and Customs. Since after marriage, she was subjected to torture both mentally and physically by her in-laws. Finally, on 31.03.2020 at about 12.00 hrs. the accused persons abused in filthy languages and when she raised objection, they assaulted the complainant and drove her away from her matrimonial house. Such allegation has been made against all the accused including the present petitioners in single averment. No specific role attributed against the petitioners with regard to the allegations or incident of physical and mental

cruelty. No date, time or manners of inflicting such torture have been mentioned. Mere vague, omnibus and bald allegations have been made against the present petitioners with regard to physical and mental torture therefore it does not constitute offence punishable under Section 498A of the Indian Penal code. Even in the subsequent proceeding initiated by the opposite party no. 2/wife under Domestic Violence indicates she made only a party to her husband without adding petitioners as party. Not a single allegation was made against any other in-laws in the said proceedings. So, it indicates whatever allegations made in the FIR appears to be vague and omnibus only to harass the petitioners for her illegal purpose which led to this Court the proceeding initiated against the present petitioners, is only for harassing them with an ulterior motive. Therefore, this Court holds that the continuation of the criminal proceeding against the present petitioners would result in an abuse of process of law.

17. Upon perusal of the statements recorded under Section 161 of CrPC, this Court finds that no specific allegations or role mentioned by the witnesses in respect of the incident of assault against the present petitioners. Incident took place on 31st March, 2020. None of the witnesses stated the reasons for her torture either physically or mentally after her marriage. None of the witnesses have also stated about any demand of dowry. She has narrated about the

incident that took place on 31st March, 2020 where she was assaulted and was treated in Barasat District Hospital. Injury report indicated nothing against the present petitioner.

18. After careful scrutiny of the materials available in the case diary, this Court does not find any sufficient or cogent evidence against the present petitioners. Even if, for the sake of argument, these proceedings were to be continued, the conviction of petitioners appears bleak and remote. To secure the ends of justice, the proceedings are deserved to be quashed under the inherent power granted under Section 482 of the CrPC insofar as the petitioners are concerned.

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.***³ which has laid down the basic points for consideration pursuant to which a complaint may be entertained in accordance with law before a Court of law. The Hon'ble Court has narrated down as to when the extraordinary power of this Court under Section 482 of the Code of Criminal Procedure, 1973 may be espoused. Relevant portion thereof may beneficially be quoted herein below: -

³ 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.”

20. In the light of above discussions made by this Court and in view of observations made by the Hon'ble Supreme Court in the above cited judgment, this Court fully satisfies that this case falls in the Categories mentioned in 1, 3, and 5 above.

21. Accordingly, **CRR No. 2676 of 2021** is, thus, **allowed**. Connected applications, if any, are also, thus, disposed of.

22. Consequently, the proceeding being G.R. Case No. 647/2020 arising out of Amdanga Police Station Case No. 160/2020 dated 01.04.2020 under Section 498A of Indian Penal Code, 1860 as well as the Charge Sheet filed being Charge Sheet No. 346/2020 dated 30.06.2020 under Section 498A of the Indian Penal Code, 1860 pending before the Learned Additional Chief Judicial Magistrate, Barasat, North 24 Parganas is hereby quashed and all orders passed therein in connection with the said proceeding are hereby set aside insofar as the present petitioners are concerned.

23. This Court, however, makes it clear that the complaint against the husband of the opposite party no. 2, namely, Joydeb Das will be decided on its own merits by the Learned Magistrate concerned independently and in accordance with law without

influencing by any observations made by this Court because this Court does not examine the case of her husband who is neither the party to this proceeding and nor has he filed any revision petition to challenge the complaint and charge sheet filed against him.

24. Let a copy of this Judgment be sent to the Learned Court below for information.

25. Interim order, if any, stands vacated.

26. Case Diary, if any, be returned to the learned counsel for the State.

27. Parties shall act on the server copies of this Judgment uploaded on the website of this Court.

28. 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)