

IN THE HIGH COURT AT CALCUTTA
Sl. 31 CRIMINAL REVISIONAL JURISDICTION
Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. 3306 of 2023

Abhinandan Maity and Ors.
Vs.
The State of West Bengal and Anr.

Mr. Malay Bhattacharyya
Mr. Subhrajyoti Ghosh
Ms. Shefa Mondal
Ms. Renesa Dey
.... for the petitioners

Mr. Madhusudan Sur
Mr. Dipankar Paramanick
.... for the State

HEARD ON : 22.12.2025
JUDGMENT ON : 22.12.2025

Ajay Kumar Gupta, J: -

1. Affidavit of service, filed by the petitioners in court today, is
taken on record.

2. The petitioner no. 1 being the husband and petitioner nos. 2 and 3 are the father-in-law and mother-in-law respectively of the de-facto complainant filed this Revisional application under Section 482 of the Criminal Procedure Code praying for quashing of the proceeding being GR Case No. 2418 of 2021 and all orders passed therein in connection with Sabang PS Case No. 285 of 2021 dated 25.08.2021 under Sections 498A/323/307/354/506/379 of the Indian Penal Code now pending before the learned Chief Judicial Magistrate, Paschim Medinipur.

3. The brief facts are relevant for the purpose of disposal of this case as under: -

a) The de-facto complainant being the wife of the petitioner no. 1 has lodged complaint previously against all the petitioners on the self-same allegation. On the basis of the said written complaint, previously a case was registered being Sabang PS Case no. 373 of 2019 dated 27.08.2019 under Sections 498A/323/506/34 of IPC and 3/ 4 of the D.P. Act. It was inter alia alleged that the accused persons had tortured mentally and physically on the demand of more dowry as well as money spent by the petitioners for treatment of their daughter, who was suffering from heart ailments. Even pendency of that case, the de-facto complainant further lodged another court complaint on 15th July, 2021 under Section 156 (3) of the CrPC before the Learned Magistrate.

b) On the basis of an order passed by the learned Magistrate, a case was registered being Sabang PS Case no. 285 of 2021 dated 25.08.2021 under Sections 498A/323/307/354/506/379 of the Indian Penal Code.

c) It is settled principle of law that accused should not be vexed twice on the same set of allegations. Hence, this instant Revisional application.

4. Learned Counsel appearing on behalf of the petitioners vehemently argues and submits that all the petitioners are innocent and they have been falsely implicated in this case on the self-same set of allegations. Furthermore, the allegation against the present petitioners with regard to perpetrating the physical assault is vague and general. No specific role played or allegation attributed against the present petitioners. Even, no particular date, time and manner of assault were mentioned in the FIR. The Petitioners seek quashing of the proceeding since the proceeding is wholly based on false and fabricated allegation and if such proceeding would be allowed then it would be a gross abuse of process of law and to secure the ends of justice quashing is necessary.

5. None appears on behalf of the opposite party no. 2 on call and/or despite good service. No accommodation is sought for.

6. Learned counsel appearing on behalf of the State produces the case diary in the case of FIR No. 373/2019 and submits that

there are sufficient materials against the present petitioners. In the said case, charge sheet has been submitted and the said proceeding still pending for disposal.

7. Having heard the submissions of the parties and on perusal of the earlier case diary as well as the materials available on record particularly the copy of complaint, I do not find any specific allegation against the physical assault by anyone. General and vague allegations have been made by the complainant against all the accused persons about the physically torture.

8. Upon careful perusal of both FIRs and the case diary, it appears that similar allegations have been made earlier with regard to the demand of dowry and Rs. 83,000/- which was spent by the petitioner no. 1 upon her daughter's operation and, thereafter, they were continuously demanding the said amount from the de-facto complainant. Due to non-fulfillment of the said demand, they tortured her and finally drove her out from her matrimonial home and now she is residing with her parents.

9. It further appears from the court complaint that she has already filed an application under Section 125 of Cr.P.C. for maintenance for herself as well as her daughter.

10. Considering the materials available on record, this court finds that there are two consecutive FIRs registered against the

present petitioners on the same set of allegations. The earlier FIR, proceeding is still pending for its disposal. Thus, two FIRs cannot lie on the self-same allegations and it would definitely vex twice and cause serious prejudice to the petitioners. In addition, allegation with regard to the physical assault is not supported by any medical documents.

11. On careful perusal of the 2nd FIR, this court does not find any specific role attributed against the petitioners of physical assault. Generally, a second FIR for the exact same incidents, facts, and allegations is impermissible under the criminal jurisprudence and deemed an abuse of process of law. This court is conscious that 2nd FIR becomes permissible if the second FIR discloses different offenses, a distinct incident or different set of allegations otherwise it would be double jeopardy. The second FIR simply repeats on the same set of allegations by providing minor additional details which is also not permissible in law and requires order of quashing to prevent the abuse of process.

12. 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.***¹ which has laid down the

¹ AIR 1992 SUPREME COURT 604; 1992 Supp. (1) Supreme Court Cases 335

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: -

“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.”

13. 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 6 and 7 above.

14. With the above facts and circumstances and materials available on record, this court is fully satisfied that the petitioners have made out a good case for passing the order of the quashing of second FIR being Sabang PS Case no. 285 of 2021 dated 25.08.2021 under Sections 498A/323/307/354/506/379 of the Indian Penal Code now pending before the learned Chief Judicial Magistrate, Paschim Medinipur and thus, the said proceeding is hereby quashed insofar as the petitioners are concerned.

15. Accordingly, **CRR 3306 of 2023** is **allowed**.

16. Consequently, all pending applications, if any, are, thus, disposed of.

17. Interim order, if any, stands vacated.

18. Let the copy of this Judgment be communicated to the Ld. Court below for information.

19. All parties shall act in terms of the copy of this Judgment duly downloaded from the official website of this court.

20. Urgent Photostat certified copy of this Judgment, if applied for, be supplied to the parties taking all legal formalities.

(Ajay Kumar Gupta, J.)

Amalranjan [A.R.(Ct.)]