

IN THE HIGH COURT AT CALCUTTA
(Criminal Revisional Jurisdiction)
Appellate Side

Present:

Justice Bibhas Ranjan De

C.R.R. 3693 of 2024

Arnab Sengupta and Others

Vs.

State of West Bengal & Anr.

For the Petitioners

:Mr. Debopam Roy, Adv.

Mr. Sarangam Chakraborty, Adv.

For the State

:Mr. Anand Keshari, Adv.

Ms. Mamata Jana, Adv.

Last Heard on

:21.08.2025

Judgment on

:11.09.2025

Bibhas Ranjan De, J.

1. The instant revision application has been preferred with a prayer for quashing the charge sheet no. 227 of 2023 corresponding to Keshiary Police Station Case no. 56 of 2023 dated 18.02.2023 under Sections 376(2)(n)/417/120-B/ 506 of the Indian Penal Code (for short IPC), in connection with G.R. Case No. 187 of 2023, presently pending before the Court of Ld. Additional Chief Judicial Magistrate, Kharagpur.

Background in Brief:-

2. On 18.02.2023 victim of this case lodged a complaint before Inspector-in-charge Keshiary Police Station alleging inter alia that the petitioner no. 1 of this revision application had developed a relationship with the victim through a matrimonial site under the name and style of **Shaadi.Com** in the first part of the year 2022. At the instance of family members of both sides they got married through registry on 17.08.2022. Thereafter, both the family members decided to conduct their social marriage on 15.12.2022. From then on petitioner no. 1 of this revision application co-habited with victim against her will on several occasions and lastly on 23.10.2022. Subsequently, petitioner no. 1 in collusion with

his other family members (petitioner no.2 to 9) refused to marry the victim.

3. On receipt of the written complaint, Keshiary Police Station Case No. 56 of 2023 dated 18.02.2023 under Section 376(2)(n)/417/120-B/ 506 of IPC was registered and the case was investigated and subsequently charge sheet was submitted.

At the Bar:-

4. Mr. Debopam Roy, Ld. Counsel, appearing on behalf of the petitioners vociferously contended that admittedly victim was legally married to the petitioner no. 1 herein through registration on 17.08.2022. Therefore, committing the offence of cheating punishable under Section 417 of the IPC does not arise.
5. Mr. Roy has vehemently submitted that the FIR involved in this revision application was lodged as a counter blast of a matrimonial suit filed by the petitioner no. 1 with the prayer for annulment of marriage labelling few grievous allegation against the victim. Mr. Roy has tried to fortify his argument on the issue of veracity by referring to few conversations between the parties. Mr. Roy has tried to convince this Court

that the events of co-habitation between the parties were nothing but consensual. Mr. Roy has further tried to make this Court understand that there is no allegation in the complaint regarding alleged co-habitation prior to the date of registry marriage and in terms of age of the victim/legally married wife, no question of rape within the meaning of Section 375 of the IPC arises. Before parting with, Mr. Roy has submitted there is no specific allegation against other family members (petitioner no. 2 to 9) of the petitioner no. 1.

6. To fortify his argument, Mr. Roy relied on a case of ***Phool Singh vs. State of Madhya Pradesh, (2022) 2 Supreme Court Cases 74.***

7. Mr. Anand Keshari, Ld. Counsel, appearing on behalf of the State has contended that plea of counter blast cannot be tested at the time of exercising jurisdiction under Section 482 of the Code of Criminal Procedure. Mr. Keshari has further submitted that genuinity of the compliant cannot be taken into account on the basis of whastapp chats and the other materials relied on behalf of the petitioners.

8. Mr. Keshari by referring to the written complaint has submitted that in the written complaint victim specifically

narrated the factum of co-habitation against her will under the misconception that they were legally married couple through registration. Though petitioner no. 1 subsequently refused to participate in the social marriage.

9. Before parting with, Mr. Keshari strenuously contended that petitioner no. 1 filed a matrimonial suit with a prayer for nullity of marriage and therefore, cannot take the ground that since there was valid marriage no offence under Section 376(2)(n)/417/120-B/ 506 of IPC could be made out.

Analysis:-

10. At the outset, I would endeavor to elucidate the well-established and settled principles governing the inherent power vested in Courts while exercising jurisdiction under Section 482 of the CrPC (corresponding to 528 BNSS).
11. In catena of decisions the Hon'ble Apex Court held that as per the cardinal principle of law, at the stage of discharge and/or quashing of the criminal proceedings, while exercising the powers under Section 482 CrPC, the Court is not required to conduct the mini Trial. This is not the stage where the prosecution/investigating agency is required to prove the charges. The charges are required to be proved

during the trial on the basis of the evidence led by the prosecution/investigating agency. There is hardly any scope to go in detail about the allegations and material collected during the course of the investigation against the accused, at this stage. As, at the stage of discharge and/or while exercising the power under Section 482 CrPC, the Court has a very limited jurisdiction and is required to consider “whether any sufficient material is available to proceed further against the accused for which the accused is required to be tried or not”.

12. Mr. Roy has submitted with utmost deference that the parties herein, being lawfully wedded spouses united in the sacred bounds of matrimony, are precluded by virtue of their marital relationship from constituting any offence under the provision of Section 417 of the IPC, as the essential element of deception between strangers cannot subsist where conjugal ties and mutual trust form the foundation of their legal relationship.

13. I find myself compelled to respectfully dissent from Mr. Roy’s contention that no offence under Section 417 of the IPC could be constituted merely on the grounds that

petitioner no. 1 and the victim are bound in lawful matrimony through registration.

14. The First Information Report unveils a disturbing narrative wherein, subsequent to the formal registration of matrimonial union, the petitioner no. 1 compelled the victim into unwilling cohabitation, thereafter declining to solemnize the sacred bound through customary social ceremonies, whilst simultaneously and paradoxically instituting legal proceeding seeking annulment of the very marriage he had initially pursued.

15. Aforementioned allegations, in my humble opinion, are undeniably encompassed within, and cannot be construed as exceeding, the statutory boundaries and legal countdown of the offence of cheating as explicitly codified under Section 415 of the IPC, rendering the same liable for punishment in accordance with Section 417 of the IPC.

16. Mr. Roy, on behalf of the petitioner, sought to establish a comprehensive defence by referring to evidence, notably whatsapp communications and allegation of the victim's subsequent improper conduct as articulated in the matrimonial proceeding, filed by petitioner no. 1 who sought

for annulment of marriage on grounds of fraud and deception.

17. I must respectfully dissent from the esteemed view propounded by Mr. Roy, insofar as the substantive question pertaining to the admissibility and evaluation of whatsapp communications or post matrimonial conduct of the victim constitute quintessentially a matter of evidential determination to be adjudicated during trial proceeding, rather than at this preliminary juncture while exercising the Courts' inherent powers under Section 482 of the CrPC.

18. Mr. Roy has contended that all sexual encounters between the parties were consensual as evidenced by the recurring nature of escapades, continuing throughout their marriage.

19. In the contextual backdrop of the present case, the intricate question of consensual cohabitation cannot legitimately constitute a subject matter for adjudication by this Court while exercising its inherent jurisdiction on under Section 482 of CrPC, inasmuch as this Court is precluded from determining the veracity and genuineness of the

complaint, which falls within the exclusive and sacrosanct domain of the Trial Court.

20. With regard to the alleged participation and involvement of the petitioner nos. 2 to 9 in the matter at hand, the First Information Report sufficiently and comprehensively discloses material particulars pertaining to their role in the purported cancellation of the social marriage ceremony, while the question of ascertaining the genuineness and veracity thereof shall appropriately be determined through the process of trial examination. That apart, allegation of conspiracy, in contrast to other actual or potential offences, primarily focuses on the mutual state of the accused and that cannot be ascertained without trial.

21. *Phool Singh* (supra) dealt with a case of conviction for the offence punishable under Section 376 of IPC and specifically focused on the issue of credibility of evidence of prosecutrix without further corroboration. Consequently, the venerable principle so eloquently articulated and solemnly pronounced by the Hon'ble Apex Court in the landmark precedent of ***Phool Singh*** (supra) finds no application whatsoever to the intricate legal matrix and substantive

issues that form the very essence of the present matter before this Court.

22. In consonance with the aforesaid exposition of legal principles and upon a comprehensive evaluation of the matter at hand, the supplication for quashing the instant proceeding, being manifestly devoid of cogent merit lacking in jurisprudential substance, is inexorably destined for dismissal.

23. As a sequel, the instant revision application being no. 3693 of 2024 stands dismissed.

24. Connected applications, if any, stand disposed of accordingly.

25. Interim order, if there be any, stands vacated.

26. All parties to this revisional application shall act on the server copy of this order duly downloaded from the official website of this Court.

27. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

[BIBHAS RANJAN DE, J.]