

Form No. J (2)

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

Present:

THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)

CRR 3074 of 2018

**SOUMI SINHA ROY @ MUKHERJEE
VS.
STATE OF WEST BENGAL**

**For the Appellant : Ms. Priyanka Jana, Adv.
Mr. Bikramjit Mandal, Adv.
Mr. Parimal Sardar, Adv.**

**For the State : Mr. Debasish Roy, Adv.
Mr. Avijit Ganguly, Adv.
Mrs. Debjani Sahu, Adv.**

Heard On : 05.12.2025

Judgment On : 05.12.2025

Uploaded On : 08.12.2025

CHAITALI CHATTERJEE (DAS) J:

1. This revisional application under Section 401 read with Section 482 of the Code of Criminal Procedure was filed for quashing of the First Information Report being Faridpur P.S. case no. 51 of 2016 dated April 29, 2016 pending before the Court of the learned Additional Chief Judicial Magistrate, Durgapur being G.R. Case No. 700 of 2016 under Sections

498A/323/406/506/34 of the Indian Penal Code and Section 3 of the D.V. Act.

2. The present petitioners are the sister-in-law and her husband.

Brief facts of the case:

3. The marriage between the brother of the present petitioner no.1 namely Subho Sinha Roy and the complainant that is the opposite party no.2 Dolon Sinha Roy was solemnized on 2nd May, 2015 as per Hindu Rites and after marriage both started living their conjugal life at Newtown . The brother of the present petitioner no.1 was at the point time Block Development Officer, Durgapur Faridpur Block and after expiry of leave he joined the service leaving the complainant in her matrimonial house but the complainant without taking permission from the mother in law or the husband left her matrimonial home on 14.6.2015 .The marital life was only for one and half months and always the relation was very cordial though the parents of the de-facto complainant wanted the brother of the petitioner to be gharjamai It is further the case of the petitioners that after she left the matrimonial home several request was made by the brother of the petitioner no 1 to come back after she always refused and on 4th September Subho wrote a letter to her and once again requested her to me back and on 8th September the de-facto complainant along with her family members reached to the office of her husband instead of going to their house and created a scene demeaning her husband in front of all the colleagues and staff of B.D.O office .Despite

that Subho accepted her and started their conjugal life which lasted for 3 years and on 12th September again she left the quarter of her husband. Then the brother of the petitioner filed a suit for divorce before the court of District Judge at Barasat .On receiving the summon of the said suit she put pressure to Subho and the family members to withdraw the said suit and again on 19th September he wrote a letter to her to take back all her belongings . Out of grudge the de-facto complainant lodged the complaint falsely implicating all the family members on 29th April, 2016 under section 498A/323/406/506/34 IPC and under section 3 of D.P Act .On completion of the investigation charge sheet has been submitted .The petitioner NO1 is the sister in law ,the petitioner no 2 is the husband of the petitioner no 1 who resides at their house at Bongaon and both the petitioner do not share the house hold of the complainant and the petitioners hardly any scope to get acquainted with her since soon after boubhat they returned to their house at Bongaon.

4. Later on after a considerable period a complaint was lodged by the de-facto complainant before the Officer-in-charge of Laudoha, Faridpur Police Station alleging, inter alia, that she was physically and mentally tortured by her in-laws as well as the present petitioners. She had to inform her parents as the torture was so severe and they rescued her later, on September 7, 2015 she was given a letter from her husband again assuring to take care of her and on next date that is September 8, 2015 she was sent to her husband by her parents. Ultimately her father

also informed the block member Sujit babu regarding torture inflicted upon her. Lastly she was advised to take her husband to the psychiatrist for his mental problem.

5. It is further alleged that on 4th February, 2016 she lodged the complaint and it was further alleged from the very next date of her marriage her husband pressurized her for having a decree of divorce. It was further alleged that since she did not agree to such proposal for her husband for divorce. A Mat Suit no.1947 of 2015 was filed by the husband within one year of their marriage. Accordingly on the basis of such complaint received by the said police station of Faridpur Police Station case no. 51/2016 started under the aforesaid Sections.

6. On completion of the same, charge sheet has been submitted. Hence the petitioner have come up before this Court for quashing of proceeding since the proceeding is allowed to be continued it would amount to gross abuse of the process of law.

Submission :-

7. The learned advocate appearing on behalf of the petitioners submits that the present petitioner no.1 is the sister-in-law and her husband and no iota of material can be found from the four corners of the written complaint which goes against the petitioners and they has been absolutely falsely implicated. That apart the allegations leveled against her are vague and omnibus in nature and no specific details of the incidents of torture are found mentioned in the written complaint. In this

regard relied upon the decisions reported in ***Gita Mehrotra And Another Vs. State of Uttar Pradesh And Another***¹, ***Bhaskar Lal Sharma And Another Vs. Monica reported in***², ***Pritam Ashok Sadaphule And Others Vs. State of Maharashtra And Another***³.

8. None appears to represent the Opposite Party no. 2. The learned Prosecutor, on the other hand, raises objection but at the same time candidly submits that admittedly there is delay in lodging the First Information Report. The First Information Report is silent in his specific details about the alleged incident of torture.

Analysis :-

9. Heard the submission of both the learned Advocate. On perusal, materials-on-record prima facie it is seen that the marriage was held in the year on 2nd May, 2015 and finally started living separately since 12th September, 2015 and the complaint was lodged on 29th April, 2016 so, admittedly there is a delay in lodging the First Information Report about 5 to 6 months and no explanation can be found regarding such delay.
10. It further transpires from entire contains of complaints of de-facto complainant that no specific date of incident or the nature of incident and the mode and manner of such torture which was inflicted upon the de-facto complainant by whom are not described. In the decision as relied
11. upon by the learned Advocate of the petitioner in ***Gita Mehrotra And***

¹ (2012) 10 SCC 741

² (2009) 10 SCC 604

³ (2015) 11 SCC 769

Another (supra) it was held that casual reference to many members of husband in the F.I.R as co-accused and in case of absence of any specific allegations and absence of prima facie case against the present petitioner, there is reason to continue such proceedings and the proceedings are liable to be quashed. It was held in the said decision taking note of the celebrated decision of ***Ramesh Vs. State of T.N***⁴that the bald allegations made against sister-in-law by the complainant appears to suggest anxiety of the informant to rope in as many as of the husband's relatives as possible.

12. It was held that neither F.I.R. nor the charge sheet furnished the legal basis for the Magistrate to take cognizance of the offence alleged against the petitioner. In the decision of ***Bhaskar Lal Sharma (supra)*** the Hon'ble Apex Court discussed the essential elements of Section 498A IPC.

Section 498A "Thus, the essential ingredients of Section 498A-A are:

1. A woman must be married.

2. She must be subjected to cruelty.

3. Cruelty must be of the nature of :

(i) any willful conduct as was likely to drive such woman :

a. to commit suicide;

⁴ (2005) 3 SCC 503

b. cause grave injury or danger to her life, limb, either mental or physical;

(ii) harassment of such woman,

(1) With a view to coerce her to meet unlawful demand for relation to meet the unlawful demand;

(iii) woman was subjected to such cruelty by :

(1) Husband of that woman, or

(2) Any relative of the husband.

For conclusion of an offence under Section 498A IPC, therefore, the ingredients thereof must be held to be existing.”

So in order to prove to offence Section 498A the allegation of harassment to that extent has to be established as to coerce her to meet any unlawful demand of dowry or any willful conduct on that part of the accused of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb and health. In the instant complaint incident no such allegation can be found so as enable to arrive at a conclusion to have at any existence of prima facie case regarding the commission of said offence against the present petitioners.

13. In the case of *Preeti Gupta and Another*⁵ the Hon'ble court discussed the scope and ambit of court's power under Section 482

⁵ (2010) 7 SCC 667

Cr.Pc It was held that every High court has inherent power to act ex debito justitiae to do real and substantial justice,for the administration of which alone it exists or to prevent the abuse of process of court .Inherent power can be exercised i) to give effect to an order under the code ii) to prevent the abuse of process of court and iii) to otherwise secure the ends of justice .

14. In the case ***R.P Kapur vs State of Punjab***⁶ the Hon'ble Supreme Court summarized some categories of cases where inherent power can and should be exercised to quash the proceedings; I) Where it manifestly appears that there is a legal bar against the institution or continuance of the proceedings ;ii) where the allegations in the first information report or complaint taken at their face value and accepted in their entirety do not constitute the offence alleged ;iii) Where the allegations constitute an offence but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge

15. It was further observed that at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment agony and pain to the complainant accused and his close relations.

16. In the case of ***Bhaskarlal Sharma vs Monica Supreme Court***⁷ dismissed the quashing of summoning order where the summons and

⁶ AIR 1960 SC 866

⁷ (2009) 10 SCC 604

nonbailable warrants were issued and held the complaint must contain the allegation of harassment to that extent so as to coerce her to meet any unlawful demand of dowry or any willful conduct on the part of the accused of such a nature as is likely to drive the woman to commit suicide,

17. The ultimate object of justice is to find the truth and to punish the guilty and to protect at the same time allegation if any, not sufficient enough to attract the Section 498A as in the instant case the entire written complaint is absolutely silent about any mode and manner of date or details of such torture. No previous complaint was before this complaint and the complaint is lodged after a considerable period of delay when she was residing at her paternal house and after the Matrimonial suit was filed.

18. This Court therefore deem it just and legally appropriate to quash the proceeding initiated in absence of sufficient materials to attract Section 498A against these petitioners and it would be the absolute abuse the process of law if the proceeding is allowed to be continued..

19. Hence this Court deem fit and appropriate to quash this proceeding. The instant criminal revisional application stands quashed so far the present petitioner are concerned.

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

(CHAITALI CHATTERJEE (DAS) J.)

Sg.

