

**CRR 3928 of 2023
with
CRAN 1 of 2024
CRAN 2 of 2025**

**Somnath Pal & Ors.
Vs.
The State of West Bengal & Anr.**

Mr. Aritra Bhattacharya
Mr. D. Mukherjee ...for the petitioners

Ms. Sreyasee Biswas
Ms. Suchismita Dutta ...for the State

Affidavit of service filed by the petitioners is taken on record.

Opposite party is not represented.

The petitioners herein have prayed for quashing of the proceeding being Purba Bardhaman Women Police Station case no. 56 of 2023 dated 11.2.2023 under Sections 498A/323/34 of the Indian Penal Code, presently pending before the learned Chief Judicial Magistrate, Purba Bardhaman.

Petitioners submit that the petitioner no. 1 is the husband, petitioner no. 2 is the brother-in-law, petitioner no. 3 is the father-in-law, petitioner no. 4 is the mother-in-law and petitioner no. 5 is the sister-in-law of the defacto-complainant.

The defacto-complainant/opposite party no. 2 was married to the petitioner no. 1 and it is alleged in the complaint inter alia to the effect that since the first 2 ½ years of marriage, the opposite party no. 2 led her matrimonial life with her husband and in-laws peacefully but thereafter, the petitioners started inflicting physical and mental torture upon the opposite party no. 2 as she did not

conceive. It is further alleged that in the year 2017, the in-laws created pressure upon her for selling properties inherited by her after her father's death and as she was not agreeable to such proposal, she was driven out from her matrimonial house on 24.5.2022. Thereafter, lastly she had again made an attempt to get entry on 8.2.2023, when she was again not allowed to enter at her matrimonial house.

It appears that after completion of investigation, the investigating agency had submitted charge-sheet under Sections 498A/323/34 of the Indian Penal Code.

Being aggrieved by the aforesaid proceeding, Mr. Bhattacharya, learned counsel for the petitioner submits that on a careful scrutiny of the documents supplied to the petitioners by the prosecution in compliance with Section 207 of the Code of Criminal Procedure, it appears that there is no ingredient which could attract Section 323 of the IPC. Neither from the letter of complaint nor the statement of the opposite party no. 2 recorded under Section 161 of the Code, could indicate that the present petitioners have ever caused any bodily pain or disease or infirmity to the opposite party no. 2, that can attract Section 323 of the IPC.

Mr. Bhattacharya further submits that to attract the offence under Section 498A of the IPC, it must be established that the cruelty or harassment to wife was to force her to cause bodily injury to herself to commit suicide or the harassment was to compel her to fulfil illegal demand for dowry. However, in the instant case, no such allegation has been established by the investigating agency as appearing from the materials collected

during investigation and as such, he submits that further continuance of the present proceeding will be a mere abuse of process of the court. He also argued that that proceeding is vexatious and mala fide and has been initiated without any justifiable ground with an intention to harass and humiliate the petitioners. Accordingly, the petitioners have prayed for quashing of the impugned proceeding.

Learned counsel for the State submits that from the statement of witnesses recorded during investigation under Section 161 of the Code makes out a case under Section 498A of the IPC though the allegation does not constitute an offence under Section 323 of the IPC. Accordingly, she opposes the prayer for quashment.

I have considered the submissions made by both the parties. On perusal of the first information report and the statement of three witnesses recorded during investigation, I find that no allegation has been levelled against the petitioners that can constitute offence under Section 323 of the IPC. So far as the allegation levelled under Section 498A of the IPC is concerned, upon a perusal of the contents of the FIR it appears that general allegations are levelled against the petitioners. The complainant alleged that *“all accused persons harassed her mentally and physically and as she was not agreeable to sell her paternal property, all the accused persons had driven here from her matrimonial house”*. No specific and distinct allegation have been made against either of the petitioners herein nor any of the petitioners have been attributed any specific role in furtherance of the general allegations made against them.

In **Neelu Chopra & another Vs. Bharati, (2009) 10 SCC 184**, Supreme Court specifically decided in Paragraph 9 as follows:

“9. In order to lodge a proper complaint, mere mention of the sections and the language of those sections is not the be all and end all of the matter. What is required to be brought to the notice of the court is the particulars of the offence committed by each and every accused and the role played by each and every accused in committing of that offence.”

In the present case even on a perusal of materials in the charge-sheet, it appears that except the bald statement that all the accused persons physically and mentally harassed her and ultimately all of them had driven her from her matrimonial home, nothing else indicating their involvement in the alleged crime has been mentioned, even by the witnesses examined during investigation.

In **Dara Lakshmi Narayana Vs. The State of Telengana** (decided on 10th December, 2024) Apex court with no uncertain terms held in paragraph 25 that a mere reference to the name 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 as there is often a tendency to implicate all the family members of husband, when domestic disputes arise out of a matrimonial discord. Such generalized and sweeping accusations unsupported by concrete evidence or particularized allegations, cannot form the basis for criminal prosecution.

While referring so, I am not unmindful to the fact that while exercising jurisdiction under Section 482 of the Code, High Court would not be justified in embarking upon an enquiry as regards

the truthfulness or reliability of the allegations, but I am convinced from the materials placed before me that the involvement by the complainant of her husband and his near relatives is with an oblique motive, even though the charge-sheet has been filed against the petitioners alleging commission of cognizable offence. Now merely for filing charge sheet if, the petitioners are compelled to go for trial in the absence of particularized allegations and on an imputation not based on concrete evidence and which is apparently to harass the petitioners over matrimonial discord, then the very conferment of the inherent power under Section 482 of the Code, to do substantial justice, would be rendered otiose.

In such view of the matter, I find that further continuance of the present proceeding will be a mere abuse of process of the court.

Accordingly, CRR 3928 of 2023 is allowed. Connected applications, if any, are also disposed of.

The impugned proceeding being Purba Bardhaman Women Police Station case no. 56 of 2023 dated 11.2.2023 under Sections 498A/323/34 of the Indian Penal Code, presently pending before the learned Chief Judicial Magistrate, Purba Bardhaman is hereby quashed.

Urgent photostat certified copy of this order, duly applied for, be given to the parties upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)