

C.R.R. 4438 of 2023

In the matter of: **Bijay Chandra Das @ Bijoy Chandra Das**

Mr. Shibaji Kumar Das
Ms. Deblina De
Ms. Maiyatree Das
Mr. Dipendu Sarkar

... for the petitioner

Mr. Debasis Roy, Ld. P.P.
Mr. Suman De
Mr. Santanu Deb Roy

... for the State

1. This is an application for quashing of the proceeding in connection with G.R. case no. 1272 of 2023 arising out of Kalyani Police Station case no. 361 of 2023 dated 16th June, 2023 which has been culminated in filing charge sheet no. 294 of 2023 under Section 498(A) of the Indian Penal Code.
2. The proceeding originated from the complaint lodged on 16th June 2023 before Kalyani Police Station where the de facto complainant/ mother (since deceased then aged about 84 years alleged that the present petitioner being the husband who is also an octogenarian person abused her and her younger son and threatened them with severe reparation if they did not leave their house along with 40 cats, whom she considered to be her children. Not only that the present petitioner also threatened to file false acquisitions against her sons and in connection with such false case one of her son has been imprisoned. It was further alleged that continuous assault and abuse was going on to the de facto complainant both physically and verbally not only to the de facto complainant but to her sons.

3. It was further alleged that the present petitioner with false and concocted story lodged a fabricated case before Kalyani Police Station under Sections 307/ 506 / 34 of the I.P.C which has also been culminated to filing charge sheet.
4. In this case the charge sheet has been submitted on 29th June, 2023. The said de facto complaint has expired on October 7, 2023. Since the charge sheet has been submitted in this case, the matter is pending before the learned Court of Additional Chief Judicial Magistrate, Kalyani, Nadia .
5. The learned advocate submits that before this Court since she was aged about 84 years and the dispute mostly existed between the son and the father and the contents of the complaint were false and fabricated and exaggerated version of trivial disputes raised between the husband and wife., and in absence of an iota of ingredient to attract Section 498(A) and if the trial is allowed proceeded with it would be a gross abuse of the process of law.
6. The learned Public Prosecutor on careful perusal of the materials on records submits that there are no ingredients to attract Section 498(A) more so when the lady and the present petitioner are also octogenarian persons and the de facto complainant has expired.
7. Heard the submission .On careful perusal of the content it appears that several litigations are pending between the father and the sons and the dispute germinated from the house of the father where the sons were not allowed to enter into the house by virtue of a judicial order as granted initially and subsequently on account of the ill health of the mother, permission was accorded them to enter into the premises. That apart this complaint was lodged after the complaint was filed by the petitioner on January 4, 2023 against his sons. The

primary objection of this petitioner was against the wife and the sons over the issue of 40 cats who were there and both the wife and the sons were very fond of those cats who were considered by the de-facto complainant as of her own children but the petitioner considered to be not very fond of animals raised protest and he created situation to that extent that the de-facto complainant had to lodge the complaint against her octogenarian husband. It transpires that de-facto complainant is being the lady never lodged any prior complaint against her husband regarding torture inflicted on her by him.

8. Section 498A speaks of; Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation—For the purposes of this section, “cruelty means”—

(a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

9. The incident of alleged torture, any detail description was mentioned whatever has been described in the written complaint are found to be between the son and the father over which a separate complaint is pending and the matter is pending for disposal. However from the statement made by the witnesses also primarily discloses the cause

of such dispute over the issue of keeping 40 cats in his house by the wife and the sons.

10. Therefore, in view of the above facts and circumstances, this Court find no reason to allow the trial to be proceeded any further against the present petitioner who is an octogenarian person and will have to face the trial when the de-facto complainant is no more in the world of living . Therefore, this proceeding is liable to be quashed.
11. However, it is pertinent to mention herein that though the proceeding is quashed against the petitioner, petitioner by no means should try to indulge himself to any act of cruelty towards the cats if any are still living in his house. Accordingly, this Criminal Revisional application stands allowed.
12. The proceeding pending before the learned court is hereby quashed.
13. Urgent Photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Chaitali Chatterjee (Das), J.)