

23.07.2025

Sl.No. 2

Ct. 23

P.A.

In The High Court At Calcutta
Criminal Revisional Jurisdiction
Appellate Side

CRR 4658 of 2023

With

CRAN 2/2024

Vikash Kumar Agarwal @ Vicky Agarwal and Ors.

Vs

The State of West Bengal and Anr.

Mr. Sourav Chatterjee

Mr. Soumya Nag

Mr. Abhinav Rakshit

Ms. Atreyee Chatterjee.....for the petitioners

Mr. Satadru Lahiri

Mr. Rishav Singh

Mr. Sagar Kumar Mishra

Mr. Safdar Alam

Mr. Soumalya Singh.....for the opposite party no. 2

Mr. Subhamay Bhattacharya

Mr. Nahid Ahmed.....for the State

1. Petitioner Nos. 1 and 2 are the maternal uncles, Petitioner No. 3 is the maternal grand-father, Petitioner No. 6 is the married sister of Akash Satnalika (the husband of opposite party no. 2), Petitioner Nos. 4 and 5 are the father-in-law and husband of Petitioner No. 6 and Petitioner Nos. 7 and 8 are the directors of one Cherry Sarees Private Limited. They have jointly filed an application under Section 482 of the Code of Criminal Procedure, 1973, challenging the correctness, legality and propriety of the impugned order dated 29.11.2023 passed by the Learned Additional Chief Judicial Magistrate,

Sealdah, South 24-Parganas in G.R. Case No. 1321 of 2023 arising out of Beliaghata Police Station Case No. 93 of 2023 dated 01.06.2023 under Sections 498A/317/406/354/354B/341 of the Indian Penal Code read with Sections 3/4 of the Dowry Prohibition Act pending before the Learned Additional Chief Judicial Magistrate, Sealdah, South 24-Parganas.

2. By the said impugned order, the Learned Magistrate allowed the prayer for issuance of search warrant at multiple premises including the business establishments, based on an application dated 28.11.2023 filed by the Investigating Officer.
3. The sum and substance of the case are relevant for the purpose of disposal of this case are as under: -
4. The aforesaid proceeding was initiated on the basis of an accusation by the Opposite Party No. 2/wife alleging a matrimonial dispute with her husband, Akash Satnalika and in-laws invoking Sections 498A/317/406/354/354B/341 of the Indian Penal Code read with Sections 3/4 of the Dowry Prohibition Act.
5. In course of investigation, the Investigating Officer conducted several raids at the matrimonial house of opposite party no. 2 as well as the bank lockers of the accused persons on 08.09.2023 (between 18.30 hrs to 21.35 hrs), again on the same day (between 22.30 hrs to 23.45 hrs) and subsequently on 06.10.2023 and

13.10.2023. During these searches, various articles claimed by opposite party no. 2 as her stridhan articles were identified and seized.

6. On 28.11.2023, the Investigating Officer filed another application before the Learned Additional Chief Judicial Magistrate seeking permission for search and seizure at the company of the Petitioner Nos. 7 and 8 as well as the residents of the Petitioner Nos. 1 to 6 and vide order dated 29.11.2023, the Learned Magistrate allowed the prayer for search and seizure of stridhan articles not only the residents but also business places of the distant relatives of husband of Opposite party no.2. Hence, this application.
7. Learned counsel representing the opposite party no. 2 vehemently argues and submits that the Learned Magistrate has rightly allowed the prayer of the Investigating Officer as all the stridhan articles particularly jewellery had not yet been recovered. Therefore, this application is frivolous and only to stall the proceeding.
8. Having heard the submission and upon carefully perusal of the impugned order as well as the application made by the Investigating Officer for seeking search warrant in several places including the business places of several relatives found without any sufficient grounds and smacks non application of mind. The impugned order

dated 29.11.2023 passed to search and seizure of stridhan articles in many places, namely, (1) Cherry Sarees Pvt. Ltd. of 176, Jamuna Lal Sagar Shiel Ground Floor, Kol – 7, (2) Mongal Bhoven at 116 CIT Rd. Scheme Vm Kol – 54, residences of (i) Vicky Agarwal and his wife Sameeksha Agarwal (ii) Sandeep Agarwal and his wife Ruchi Agarwal (iii) Bajarang Lal Agarwal and his wife Kaushalya Devi and (3) 29B, Ballygunge Circular Road 3rd Floor, Kol- 19, The residences of (i) Sat Bhagwan Agarwal and his wife Asha Agarwal (ii) Mohit Agarwal and Ayushi Agarwal found to have been passed mechanically and without assigning any reasons. If such warrant is allowed to be executed in a proceeding like matrimonial dispute in several places as aforesaid of distant relatives without valid reason would be definitely caused prejudice, harassment and great oppression. Therefore, same is liable to set side.

9. In light of the above facts and circumstances, this Court is of the considered view that the impugned order passed by the Learned Additional Chief Judicial Magistrate, Sealdah, South 24-Parganas is without applying judicious mind and committed gross error. However, it is made clear that the Investigating Officer will continue his investigation, if not already concluded, in a proper manner in accordance with law.

10. Accordingly, the impugned order dated 29.11.2023 is hereby set aside.
11. Consequently, **CRR 4658 of 2023** is, thus, **allowed**.
CRAN 2 of 2024 is also disposed of.
12. All parties shall act in terms of the copy of this order downloaded from the official website of this court.
13. Urgent photostat certified copy of this order, if applied for, is to be supplied to the parties upon compliance of all legal formalities.

(Ajay Kumar Gupta, J.)