

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

**PRESENT:
THE HON'BLE JUSTICE UDAY KUMAR**

CRR 175 of 2025

**Smt. Dipti Dey @ Dipti Dey Bhattacharya & Anr.
-Vs.-
The State of West Bengal & Anr.**

For the Petitioners : Mr. Avimannu Das
Mr. Indranuj Dutt

For the State : Mr. Saikat Chatterjee
Mr. Chattu Roy

Hearing concluded on : 31.07.2025

Judgment on : 02.08.2025

Uday Kumar, J.:-

1. This revisional application, filed by the petitioners, the ex-sister-in-law and her husband of the de-facto complainant/ Opposite Party No. 2, Smt. Chandana Paul (Dey), under Section 482 of the Code of Criminal Procedure, 1973, seeks the quashing of the impugned criminal proceeding, G.R. Case No. 5281 of 2015, arising from Bhaktinagar Police Station Case No. 1821 of 2015, dated December 30, 2015, under Sections 498A and 509 of the Indian Penal Code, 1860. The primary contention for quashing is that the marital relationship, which formed the very basis of the criminal complaint lodged by Opposite Party No. 2,

has since been dissolved by a decree of divorce granted on mutual consent, thereby rendering the continuation of the criminal proceedings against the petitioners an abuse of the process of law.

2. The marital relationship that forms the backdrop of this dispute was solemnized on April 22, 2015, between Biplab Dey, the elder brother of Petitioner No. 1, and the Opposite Party No. 2. The petitioners contend that the couple initially resided at their property. It is significant to note that on December 28, 2015, Petitioner No. 1 had lodged a written complaint against Opposite Party No. 2.
3. Two days later, on December 30, 2015, the Opposite Party No. 2 filed her complaint against the present petitioners. This complaint led to the registration of Bhaktinagar P.S. Case No. 1821 of 2015, alleging physical and mental torture, spreading of negative rumours, and preventing her husband from interacting with her, purportedly occurring after approximately three months of marriage. A charge-sheet (No. 460/16) was subsequently filed on March 31, 2016, and cognizance of the alleged offences was taken by the Learned Chief Judicial Magistrate, Jalpaiguri, on July 11, 2016. The petitioners secured anticipatory bail in connection with this case.
4. A crucial development occurred on May 29, 2019, when Biplab Dey and the Opposite Party No. 2 jointly filed an application under Section 13B of the Hindu Marriage Act, 1955, for divorce by mutual consent (Matrimonial Suit No. 174(5) of 2019). This joint application contained explicit undertakings in Paragraphs 9 and 10, stating unequivocally that the parties *"shall not invoke any cases/suit against each other and shall*

not lodge/Invoke any claim or complaint against each other or their respective family members," and that they "will have no claim and counter claim against each other or against the family members of each other."

The Opposite Party No. 2 further affirmed this position in her examination-in-chief on January 4, 2020. Consequently, a decree of divorce by mutual consent was granted on January 4, 2020.

5. Mr. Avimannu Das, Learned Advocate for the petitioners, primarily contended that the criminal proceeding has become infructuous following the dissolution of the marital tie-on mutual consent. He emphasized the clear undertakings given by the Opposite Party No. 2 in joint application for divorce under Section 13B of the HMA, 1955 and her deposition, explicitly agreeing not to pursue claims against the ex-husband or his family members, which undeniably includes the petitioners.
6. Mr. Das submitted that continuing the criminal proceedings against the petitioners, who are the ex-sister-in-law and her husband, despite this comprehensive settlement and the express undertaking, would amount to a patent abuse of the process of the Court. He further submitted that the FIR was lodged as a counterblast to Petitioner No. 1's prior complaint, without a preliminary inquiry, and suffered from an inordinate delay, rendering it unsustainable as per *Lalita Kumari v. State of Uttar Pradesh*.
7. Mr. Das also highlighted the vague and omnibus nature of the allegations and the absence of specific ingredients for Sections 498A/509 IPC against the petitioners, suggests that a civil dispute had

been given a criminal colour. Relying on *Shlok Bhardwaj vs. Runika Bhardwaj and Ors.* he prayed for quashing of this proceedings.

8. Conversely, Mr. Saikat Chatterjee, Learned Advocate for the State, resisted the application by arguing that a prima facie case was established by the charge-sheet and that dissolution of marital tie on mutual consent does not automatically absolve criminal liability. He attempted to distinguish the settlement clauses in the petition, stating that they relate to future claims and do not vitiate past criminal allegations. He further pointed out that the order of mutual divorce is silent on the continuation or settlement of the criminal case.
9. Mr. Chatterjee, also pointed out that the divorce order itself was silent on the criminal case and distinguished the reliance on *Shlok Bhardwaj*, arguing it was not applicable against persons other than the husband. Thus, he prayed for dismissal of this revisional application summarily.

10. The central question that falls for consideration is:

“Whether a criminal proceeding initiated prior to a petition for mutual consent divorce should be allowed to continue against the husband's family members, when the parties to the divorce have explicitly agreed not to pursue claims against each other or their respective family members.”

11. I have meticulously considered the arguments advanced by both sides and perused the records. It is a well-established principle that the inherent powers under Section 482 Cr.P.C. are to be exercised sparingly and with circumspection, primarily to prevent abuse of the process of any Court or otherwise to secure the ends of justice. While criminal law ordinarily takes its own course irrespective of civil settlements, the

unique nature of matrimonial disputes, especially those under Section 498A IPC, often necessitates a pragmatic approach by the courts. These cases frequently arise from strained marital relationships, and once the marital tie is legally severed through mutual consent, accompanied by an overarching settlement, the very foundation of the complaint may often crumble, particularly when it involves collateral relatives.

- 12.** In the present case, the marriage between Biplab Dey and Opposite Party No. 2, which is the genesis of the entire dispute, has been formally dissolved by a decree of mutual consent. Crucially, the very petition for divorce under Section 13B of the Hindu Marriage Act, 1955, contained unequivocal undertakings by both parties, including the de-facto complainant, Opposite Party No. 2. She explicitly agreed not to invoke any claims or complaints against "each other or their respective family members." The petitioners herein are clearly "family members" of Biplab Dey, the ex-husband. The complainant herself affirmed this position in her examination-in-chief before the Matrimonial Court. To allow the criminal proceeding to continue against these petitioners, who are collateral relatives and were specifically covered by this comprehensive settlement and undertaking by the complainant, would, in my view, be contrary to the spirit of the mutual consent divorce and the evident intention of the parties to bring a finality to all disputes arising from the marital relationship. The agreement "not to invoke any cases/suit against each other and shall not lodge/Invoke any claim or complaint against each other or their respective family members" is sufficiently broad to encompass existing criminal complaints, especially when no

exclusion was made. The State's argument that it only applies to future claims appears to be a hyper-technical interpretation that goes against the very intent of achieving a complete and amicable separation.

13. Furthermore, I cannot overlook the circumstances surrounding the lodging of the FIR. The complaint by Opposite Party No. 2 was lodged on December 30, 2015, a mere two days after Petitioner No. 1 had herself lodged a complaint against the Opposite Party No. 2. This proximity in timing strongly suggests that the criminal case may have been filed as a retaliatory measure or a counterblast, rather than solely stemming from a genuine criminal grievance that warrants continued prosecution, particularly after the marital bond itself has ceased to exist on mutually agreed terms. The alleged delay in lodging the FIR (almost 5 months from the alleged initial occurrence) and the absence of a preliminary inquiry, as mandated by the Hon'ble Supreme Court in *Lalita Kumari v. State of Uttar Pradesh* for matrimonial disputes to ascertain truthfulness and prevent harassment, further weakens the case for continued prosecution against collateral relatives where a comprehensive settlement has been reached between the estranged spouses.

14. While a charge-sheet has been filed and cognizance taken, the inherent powers of this Court are designed precisely to prevent the abuse of the process of law. Allowing a criminal proceeding to continue where the very matrimonial dispute, which is the bedrock of the complaint, has been resolved with an explicit agreement covering family members, would indeed amount to an abuse of the court's process, causing unwarranted harassment to the petitioners. The spirit of the settlement

between the principal parties must be given due weight. The general and omnibus nature of the allegations, without specific instances or overt acts attributed to the individual petitioners to adequately attract Sections 498A and 509 IPC, also weighs in favour of quashing, especially when viewed through the lens of a thoroughly settled matrimonial dispute.

- 15.** The decision of the Hon'ble Supreme Court in *Shlok Bhardwaj vs. Runika Bhardwaj and Ors.* (Criminal Appeal No. 741 of 2009), though not on identical facts, supports the principle that once a matrimonial dispute is resolved amicably, efforts should be made to bring associated criminal proceedings, particularly those under Section 498A, to an end. This is consistent with the larger goal of ensuring peace and harmony, even post-divorce, rather than perpetuating litigation that has lost its foundation.
- 16.** In view of the aforesaid comprehensive analysis, I find that the continuation of G.R. Case No. 5281 of 2015 against the petitioners, Smt. Dipti Dey alias Dipti Dey Bhattacharya and Sri. Nripendra Narayan Bhattacharya, would undeniably be an abuse of the process of Court and would not serve the ends of justice. The explicit undertaking by the complainant in the mutual consent divorce proceedings is a pivotal factor that cannot be disregarded.
- 17.** Accordingly, the revisional application being CRR 175 of 2025, succeeds.
- 18.** The impugned proceeding being G.R. Case No. 5281 of 2015 pending before the Learned Chief Judicial Magistrate, Jalpaiguri, arising out of Bhaktinagar Police Station Case No. 1821 of 2015 dated December 30,

2015, under Sections 498A/509 of the Indian Penal Code, 1860, and all orders passed therein are hereby quashed in respect of the petitioners, Smt. Dipti Dey alias Dipti Dey Bhattacharya and Sri. Nripendra Narayan Bhattacharya.

- 19.** There shall be no order as to costs.
- 20.** The interim order or orders, if any, granted hitherto, stand vacated with immediate effect.
- 21.** The Trial Court Records (TCR), if any, shall be forthwith transmitted to the Learned Chief Judicial Magistrate, Jalpaiguri.
- 22.** The Case Diary, if any, be returned forthwith.
- 23.** Let a copy of this judgment be sent to the learned court below forthwith for necessary information and compliance.
- 24.** An urgent certified copy of this judgment and order, if applied for, be issued to the parties, as expeditiously as possible, upon compliance with all necessary legal formalities in this regard.

(Uday Kumar, J.)