

27.11.2025
Item No.1(DL)
Ct. No.3
ss/srm

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Criminal Revisional Jurisdiction**

CRR 193 of 2025

In Re:- An application under Section 528 of Bharatiya
Nagarik Suraksha Sanhita (BNSS), 2023.

In Re : Smt. Ali Rani Deb and Anr.

... Petitioners.

Mr. Ajay Singhal,
Mrs. Heena Yasmin Shaikh,
Ms. Chiroshhree Dey

.....for the petitioners

Mr. Aditi Shankar Chakraborty, ld. APP
Mr. Ujjwal Luksom,

.....for the State

Mr. Sudip Paul,

.....for the de facto complainant

1. This matter is appearing in the list under the heading
'For Orders'.
2. This revisional application has been filed by the
petitioners under Section 528 of Bharatiya Nagarik
Suraksha Sanhita, 2023 (hereinafter referred to as BNSS,
2023) seeking for quashing of proceedings as against the
petitioners being G.R. Case No.3274 of 2023 (arising out
of New Jalpaiguri Police Station Case No.626 of 2023
dated 24.06.2023) under Sections 498A/323/506/109 of
the Indian Penal Code (*in short, 'IPC'*) pending before the
learned Chief Judicial Magistrate, Jalpaiguri.

3. The petitioners are parents-in-law and have been arrayed in the charge sheet as accused Nos.3 and 2 respectively. The petitioners contend that marriage of their son namely Sri Joy Kumar Deb (accused No.1) and the complainant (opposite party No.2) was solemnized on 18th February, 2022. In the written complaint it is alleged that after few months of marriage the petitioner No.1 along with accused person Nos.1 and 4 started mental torture upon opposite party No.2-complainant, which increased day by day. The petitioners instigated such torture. Further, it is alleged that on 2nd January, 2023, when the opposite party No.2-complainant returned back to her matrimonial home after visiting her parental home, the accused persons along with the petitioners started abusing the opposite party No.2-complainant with filthy languages and upon instigations the opposite party No.2-complainant was slapped by her husband (accused No.1) and thereafter she was taken back to her paternal home. On 18th February, 2023 when the opposite party No.2-complainant came back to the matrimonial home, the petitioners along with the accused No.1 insulted her father. On 5th June, 2023, the opposite party No.2-complainant informed the alleged incident to her parents over phone and thereafter when the parents and relatives of the opposite party No.2-complainant came to the

matrimonial house, they were insulted by all the accused persons including the petitioners and opposite party No.2-complainant was forced to leave the matrimonial home. On such allegations, the FIR came to be registered. Upon completion of investigation, the investigating agency filed charge sheet against all the FIR named accused persons including petitioners herein *vide* charge sheet No.618/23 dated 31st July, 2023 under Sections 498A/323/506/109 of IPC.

4. Being aggrieved by and dissatisfied, the petitioners being the parents-in-law have preferred this revisional application for quashing the instant proceedings against them pending before the learned Chief Judicial Magistrate, Jalpaiguri.
5. Mr. Ajay Singhal, learned advocate for the petitioners submit that the allegations made in written complaint against the petitioners, who are parents-in-law, are general, vague and obscure. The allegations are omnibus and are bereft of material particulars and requisite details. In order to coerce the family members of the husband to meet out illegal demands and with an ulterior motive to wreak vengeance, the instant criminal proceedings has been initiated at the instance of the opposite party No.2/complainant implicating all the relatives of the husband. The tendency of implicating the

relatives of the husband in the matrimonial dispute has been deprecated by the Hon'ble Supreme Court time and again in different decisions. Relying on the decision of Hon'ble Supreme Court passed in ***Kahkashan Kausar Alias Sonam and Others versus State of Bihar and Others*** reported in **(2022) 6 SCC 599**, he submits that the Hon'ble Supreme Court while quashing the proceedings has considered earlier decisions of the Hon'ble Supreme Court wherein it was observed that the false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked, would result in misuse of the process of law and the Hon'ble Apex Court has warned the courts from proceeding against the relatives and in-laws of the husband when no *prima facie* case is made out against them. The ultimate object of justice is to find out truth and punish guilty and protect the innocent. An omnibus allegation has no legs to stand in the eye of law and did not constitute any offence and therefore, the proceeding is liable to be quashed. To buttress his contentions, he also relies on the decision of a co-ordinate Bench of this Court passed in ***Biswajit Singha Roy and Another versus The State of West Bengal and Another*** reported in **2019 SCC OnLine Cal 9387**. Moreover, there are no legal evidences in support of the case of the

prosecution. Neither there is statement of independent witnesses nor there are any injury reports. It is settled principles of law that where there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge, the proceeding is liable to be quashed against the accused person. In support of his contention he relies on the decision of Hon'ble Supreme Court passed in ***R. P. Kapur versus State of Punjab*** reported in ***AIR 1960 SC 866***. Furthermore, relying on the decisions of Hon'ble Supreme Court in ***Manju Ram Kalita versus State of Assam*** reported in ***(2009)13 SCC 330***, he submits that petty quarrel cannot be termed as 'cruelty' under Section 498A of IPC. It is to be determined/inferred by considering the conduct of a man, weighing the gravity or seriousness of his act and to find out as to whether it is likely to drive the woman to commit suicide or not. Just a mere allegation of any torture cannot amount to cruelty as defined under Section 498A of IPC. There is no such injury report collected during the course of investigation in support of the allegations of torture. In light of his aforesaid submissions, he prays for quashing of the instant proceedings against the petitioners.

6. On the contrary, Mr. Ujjwal Luksom, learned Advocate for the State submits that upon completion of

investigation and on *prima facie* materials collected during the course of investigation charge sheet has been submitted against all the FIR named accused person including these petitioners. The four prosecution witnesses who have been examined by the investigating officer states in their recorded statement of torture and harassment by these petitioners and other accused persons. As such, the petitioners should be relegated to face trial in court. He seeks for dismissal of the application for quashing of the instant proceedings against these petitioners.

7. In reply to the contentions raised on behalf of the petitioners, Mr. Sudip Paul, learned Advocate for the opposite party No.2-complainant submits that no hard and fast rule can be laid down as to what acts or conducts will amount to cruelty in any given case. The victim is a poor lady. In deciding whether or not a particular state of affairs amounts to legal cruelty, the Court has to consider the social status, the environment, the education, the mental and physical conditions and the susceptibilities of the innocent spouse as also the custom and manners of the parties. Whether acts and conducts complained of constitute cruelty have to be construed in reference to the whole matrimonial relationship. To buttress his aforesaid contention he

relies on the decision of this Court passed in **Smt. Krishna Banerjee versus Bhanu Bikash Bandyopadhyay** reported in **AIR 2001 (Calcutta) 154**. Relying on the decision of the Hon'ble Supreme Court passed in **Sundar Babu & Ors. versus State of Tamil Nadu** reported in **(2009)14 SCC 244** he submits that the inherent power under Section 482 of the Code of Criminal Procedure should not be exercised to stifle a legitimate prosecution. The High Court being the highest court of a State should normally refrain from giving a *prima facie* decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court. He also seeks for dismissal of the revisional application of quashing of proceedings against the petitioners.

8. Upon hearing the learned Advocates for the respective parties, the only issue which falls for consideration is whether the prayer for quashing of the instant proceedings against the petitioners can be allowed or not.
9. The petitioners are the parents-in-law of the complainant (opposite party No.2 herein). In the written complaint, the allegations against the present petitioners are that they insulted the parents of the complainant and also of instigating the other accused persons to inflict torture both physically and mentally upon the complainant. The

investigating agency during the course of investigation recorded statements of the four witnesses of which three witnesses are from the same locality where the parental house of the complainant is situated. The parents of the complainant in their statement recorded under Section 161, Cr.P.C. stated that after few months of marriage these petitioners being the parents-in-law along with the husband of the complainant used to torture, harass and humiliate the complainant on various domestic issues. There are also allegations that the petitioners used to assault, torture and humiliate her. The other witnesses who are known to the complainant have stated in similar manner. The allegations against the present petitioners are general and omnibus and is bereft of details. Though there are allegations of assault yet in the course of investigation no such injury report has been collected by the investigating agency. There are also no case made out that due to such assault the complainant sustained injuries and was treated by any doctor.

10. At this stage, it would be apposite to reproduce Section 498A as hereunder:

"498-A. Husband or relative of husband of a woman subjecting her to cruelty. 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 wilful 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."

Cruelty has been defined by the Explanation added to the section itself. The basic ingredients of Section 498-A IPC are cruelty and harassment."

11. It manifests from the aforesaid provision that 'cruelty' under Section 498A, IPC means any wilful 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. No such case has been made out of cruelty. Further there is no case of the prosecution of harassment for unlawful demand of any property or valuables.

12. In *Manju Ram Kalita (supra)*, the Hon'ble Apex Court observed as follows:

"21. "Cruelty" for the purpose of Section 498-A is to be established in the contest of Section 498-A IPC as it may be different from other statutory provisions. It is to be determined/inferred by considering the conduct of the man, weighing the gravity or seriousness of his acts and to find out as to whether it is likely to drive the woman to commit suicide, etc. It is to be established that the woman has been subjected to cruelty continuously/persistently or at least in close proximity of time of lodging the complaint. Petty quarrels cannot be termed as "cruelty" to attract the provisions of Section 498-A IPC. Causing mental torture to the extent that it becomes unbearable may be termed as cruelty."

13. From the aforesaid proposition of the Hon'ble Supreme Court, the cruelty for the purpose of 498A, IPC is to be established in the contest of 498A IPC as it may be different from other statutory provisions. It is to be determined by considering the conduct of the man, weighing the gravity or seriousness of his acts and to find

out as to whether it is likely to drive the woman to commit suicide, etc. Petty quarrels cannot be termed as “cruelty”.

14. The Hon’ble Supreme Court in *Kahkashan Kausar @ Sonam (supra)* observed as follows:

“17. The abovementioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of Section 498-A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long-term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said Judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this Court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.

18. Coming to the facts of this case, upon a perusal of the contents of the FIR dated 1-4-2019, it is revealed that general allegations are levelled against the appellants. The complainant alleged that "all accused harassed her mentally and threatened her of terminating her pregnancy". Furthermore, no specific and distinct allegations have been made against either of the appellants herein. None of the appellants have been attributed any specific role in furtherance of the general allegations made against them. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are, therefore, general and omnibus and can at best be said to have been made out on account of small skirmishes. Insofar as husband is concerned, since he has not appealed against the order of the High Court, we have not examined the veracity of allegations made against him. However, as far as the appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution.”

15. In *Biswajit Singha Roy (supra)*, the FIR was quashed with the following observation:

“15. If one goes through the entire FIR as a whole then it will be clear that the names of the petitioners, parents-in-law of the complainant have been mentioned in very cursory manner. No specific allegation has been made against them. Allegations contained in the FIR against them are not free from ambiguity. It suffers from vagueness, so far these petitioners are concerned. The opposite party No. 2 has made statements before the different authorities regarding the alleged incident on different dates. In this connection the learned Additional Public Prosecutor submitted that the torture meted to the opposite party No. 2 was of such a nature which compelled her to attempt to commit suicide as reflected in her statement made before the various authorities, In

support of his contention, he has drawn the attention of the Court to the treatment sheet of the complainant at Peerless Hospitex and Hospital Private Limited. Plain reading of the FIR leaves no doubt that the complainant made specific allegations against her husband only. On one or two occasions the names of the petitioners were mentioned in the FIR and the said mentioning of their names was in very casual manner and without making any specific allegation against them. Those averments made in the FIR are not free from ambiguity. Moreover, in her statements as collected by the Investigating Officer during Investigation before the different authorities the opposite party No. 2 did not make any specific allegation against her parents-in-law. Only the parents of the complainant made statement against the petitioners under section 161 of the Code of Criminal Procedure.

16. In this connection, it would not be out of place to mention the principles enunciated by our Apex Court in the case of *R.P. Kapur v. State of Punjab*, AIR 1960 SC 866. These principles are hereunder:

(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 the 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.”

16. It is also placed on record that there are no such cogent legal evidence against the petitioners excepting few statements of the witnesses which are bereft necessary details and specifications. The decision in *Sundar Babu (supra)* of the Hon’ble Supreme Court is not an absolute bar to exercise powers under Section 482 of Cr.P.C. The Hon’ble Apex Court in its decision in ***State of Haryana versus Ch. Bhajan Lal & Ors.*** reported in ***AIR 1992 SC 604*** has laid down certain principles for quashing of the proceedings and in paragraph No.108 the Hon’ble Supreme Court has given illustration wherein the extraordinary powers under Article 226 of the

Constitution of India or the inherent power of Section 482 of Cr.P.C. can be exercised by the High Court to prevent abuse of the process of any Court or otherwise to secure ends of justice. The Hon'ble Supreme Court in the said decision illustrated as follows:

“108. *The illustrations are as follows:-*

1. *Where the allegations made in the FIR or the complaint, even If they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;*
2. *Where the allegations in the FIR and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by Police Officers under section 156(1) of the Code except under an order of a Magistrate within the purview of section 155(2) of the Code;*
3. *Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out case against the accused;*
4. *Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no Investigation is permitted by a Police Officer without an order of a Magistrate as contemplate under section 155(2) of the Code;*
5. *Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can even reach a just conclusion that there is sufficient ground for proceeding against the accused;*
6. *Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuation of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress, for the grievances of the aggrieved party;*
7. *Where a criminal proceeding is manifestly accompanied with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”*

17. In the backdrop of the aforesaid decisions of law as it is found that the allegations are general and omnibus against the petitioners who are parents-in-law and in the absence of cogent legal evidence it is a fit case to exercise

power under Section 482 of the Code of Criminal Procedure.

18. The decision in *Krishna Banerjee (supra)* cited on behalf of the opposite party No.2-complainant has been passed in First Appeal against a judgment passed by the Additional District Judge in matrimonial suit under the Hindu Marriage Act. Thus, the decision is factually distinguishable from the case at hand.
19. In view of the above discussion, the proceedings being G.R. Case No.3274 of 2023 (arising out of New Jalpaiguri Police Station Case No.626 of 2023 dated 24.06.2023) under Sections 498A/323/506/109 of the Indian Penal Code pending before the learned Chief Judicial Magistrate, Jalpaiguri stands quashed as against the petitioners.
20. Accordingly, revisional application being **CRR 193 of 2025** is allowed and disposed of.
21. All connected applications, if any, stand disposed of.
22. Interim order, if any, stands vacated.
23. Urgent photostat certified copy of this order, if applied for, be given to the parties on urgent basis upon compliance of all formalities.

(Bivas Pattanayak, J.)