

In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Criminal Revisional Jurisdiction

Present:

The Hon'ble Justice Rai Chattopadhyay

CRR 254 of 2025

Mr. Vishal Kumar

Vs.

The State of West Bengal & Anr.

For the petitioner : Mr. Satarudriya Mukherjee
: Ms. Tannu Agarwal

For the State : Ms. Aditi Shankar Chakraborty, Ld. APP (through VC)
: Mr. Kallol Acharjee

Heard On : **18.12.2025**

Judgment On : **18.12.2025**

Rai Chattopadhyay, J.

- 1.** The petitioner in this revision has challenged the proceeding in GR Case No. 808 of 2022 pending in the Court of learned Additional Chief Judicial Magistrate, Siliguri.
- 2.** The petitioner is the accused person in Siliguri Women Police Station Case No. 18 of 2022 dated February 11, 2022, under Section 376, 417, 420, 306 of the Indian Penal Code.
- 3.** The allegation against the petitioner in a nut-shell is that the de-facto complainant has been duped by him after his promise to marry her and not fulfilling the promise, as well as of an amount of

Rs.10,000,00/- to Rs.12,00,000/- which he has fraudulently got transferred from her account in his own favour. The de-facto complainant had stated in the FIR dated February 11, 2022 that for several years, the petitioner and the complaint has been in relationship and she has been sexually exploited and raped by the petitioner.

4. The de-facto complainant has specifically mentioned in the FIR that they started living together at a particular address seven years before the date of filing the FIR as above.
5. Learned advocate appearing for the petitioner has strongly contended that the entire allegations against the petitioner is based on false and frivolous grounds in so far as the de-facto complainant has been for all those years a married person, having two children. He submits that if there was any relationship between them that was only consensual and voluntary.
6. In this regard he has referred to the documents annexed by the petitioner in the supplementary affidavit which are the matrimonial suit filed by the present petitioner before the competent court, on the date of lodging of the FIR itself i.e. 11th February, 2022.
7. The learned advocate for the petitioner has also referred to the judgment of the Hon'ble Supreme Court in ***Mahesh Damu Khare-vs- The State of Maharashtra & Anr.*** reported in **2024 SCC OnLine SC 3471** and submitted that according to the dictum of the Supreme Court therein the allegation of a person who herself has been living on the date of FIR in adulterous relationship, about

commission of rape by the accused person, shall not be tenable in the eye of law.

- 8.** For the reason as above, the learned advocate for the petitioner has sought for an order of quashing the entire proceedings as mentioned above, now pending before the learned Additional Chief Judicial Magistrate, Siliguri.
- 9.** Mr. Acharjee, learned advocate has appeared on behalf of the State respondent. He has strongly relied on documents available in CD particularly the statement of the de-facto complainant recorded under Section 164 of the Cr.P.C. He submits that sufficient materials are available strongly suggesting the petitioner's involvement in the alleged offence and on the basis of that, the criminal proceeding as pending before the learned trial court, may not be interfered with.
- 10.** Having heard both the learned advocates and perusing the materials available on record and CD, it is found that the de-facto complainant has in no uncertain terms accepted that for last seven years prior to the date of filing of the FIR she has been in physical and sexual relationship with the present petitioner.
- 11.** The documents relied on by the petitioner and objected to by the opposite parties clearly suggest that during the period when the de-facto complainant has claimed to be in physical and sexual relationship with the present petitioner, she happened to be a married person and mother of two children.

12. In such circumstances, the ratio decided by the Hon'ble Supreme Court in the judgment of ***Mahesh Damu Khare (Supra)***, squarely applies in case of the present petitioner.
13. It is further learnt from the documents available in CD that no investigation has been conducted as to the allegation of the defacto complainant regarding fraudulent transaction of Rs. 10, 000,00/- to Rs. 12,000,00/- from the account of the de-facto complainant to that of the petitioner and hence no material in support of that allegation is available in the petitioner. As a matter of fact, the allegation itself as appeared in the FIR is vague in nature being devoid of any particular like date of transaction or payment if any etc.
14. Considering all above, the court is of the opinion that in the factual background of the case as well as in view of the settled legal principles as discussed above, the criminal proceeding initiated against the petitioner by virtue of the FIR of the opposite party no. 2 dated 11.2.2022, is only baseless.
15. In such circumstances, sending the petitioner to face the rigours of the trial, would be gross abuse of the process of court.
16. For the reasons as above, the court finds this revision should succeed.
17. Hence, the CRR 254 of 2025 is allowed.

- 18.** The proceeding in connections with GR Case No. 808 of 2022 pending in the Court of learned Additional Chief Judicial Magistrate, Siliguri stands quashed.
- 19.** Urgent certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)