

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
(Criminal Revisional Jurisdiction)
APPELLATE SIDE**

Present:

The Hon'ble Justice Krishna Rao

CRR No. 276 of 2024

Madhabi Saha & Ors.

Versus

The State of West Bengal & Anr.

Mr. Sandip Guha Roy

Mr. Ananda Paul

Mr. Biki Sutradhar

.....For the Petitioners.

Mr. Nilay Chakraborty, Learned APP.

Mr. Arjun Choudhury

.....For the State.

Mr. Aniruddha Biswas

Ms. Kanak Mishra

Mr. Manoj Saha

.....For the de facto complainant

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Hearing Concluded On : 21.05.2025

Judgment on : 11.06.2025

Krishna Rao, J.:

1. The petitioners have filed the present application under Section 482 of the Code of Criminal Procedure, 1973 praying for quashing of FIR of Alipurduar Women Police Station Case No. 13 of 2024 dated 13th March, 2024 under Section 498A/ 328/323 of the Indian Penal Code, 1860 read with Section 3/4 of the Dowry Prohibition Act pending before the Learned Additional Chief Judicial Magistrate at Alipurduar.
2. The Opposite Party No.2 being the wife of the petitioner no.7 has made a written complaint against all the petitioners alleging that during her marriage as per demand of her husband and her in-laws given gold and other valuable items. After four (4) months of marriage, the petitioners started mentally and physically torturing upon the opposite party no.2 and forcefully administered unknown stupefied drugs like substance mixed in water in her mouth, to which she somehow escaped and called her family for help and left her matrimonial house and started residing with her parents. It is also alleged that on 5th December, 2023, the petitioners called the opposite party no.2 to her in-laws house and when she went along with her brother, the petitioners assaulted the opposite party no. 2 and her brother and thrown out of their house.
3. The police has completed investigation and submitted charge sheet against all the petitioners for the offence under Sections

498A/328/323 Indian Penal Code, 1860 read with Section 3/4 of the Dowry Prohibition Act without mentioning any specific provision of the said act.

4. The petitioner no.1 is the aunt-in-law, the petitioner no.2 is sister-in-law, the petitioner no.3 is the husband of sister-in-law, the petitioner no.4 is sister-in law, the petitioner no.5 is sister-in-law, the petitioner no. 6 is the uncle-in-law and the petitioner no.7 is the husband of the opposite party no.2.
5. In the charge sheet, the Investigating Officer has cited altogether eight (8) witnesses including doctor and the Investigation Officer. The other three witnesses are the opposite party no.2, her mother and her brother.
6. In the written complaint, the opposite party no.2 has mentioned the name of all the petitioners but it is not specified how all the petitioners have involved in the instant case.
7. The Investigating Officer on completion of investigation submitted charge sheet for the same offence against all the petitioners but there is no evidence how the petitioner nos. 1 to 6 have been involved.
8. In the complaint, it is alleged that on 27th October, 2023, the petitioners physically tortured upon the opposite party no.2 and forcefully administered unknown stupefied drug like substance mixing in the water in the mouth of the opposite party no.2 but somehow she

escaped and called her family for help and left the house and started residing with her parents. The police have not collected any documents with regard to the said incident. Even the alleged incident has happened in the month of October, 2023 but no complaint was lodged till 13th March, 2024.

- 9.** Secondly, the opposite party no.2 has alleged that on 5th December, 2023, the petitioners called the opposite party no.2 back to her in-laws house and when the opposite party no.2 and her brother went, the petitioners have beaten the opposite party no.2 and her brother and kicked them out from the house. The alleged incident was happened on 5th December, 2023 but no complainant is made till 13th March, 2024.
- 10.** The Investigating Officer in the charge sheet stated that she has examined witnesses under Section 161 of the Cr.P.C. but no documents were seized due to unavailability of original. From charge sheet, it reveals that no documents were seized by the Investigating Officer in connection with the alleged incidents.
- 11.** As per the statement of the brother of the opposite party no.2, he is the hearsay witness of both the alleged incidents. He has stated that there was a meeting with the councilor on 5th December, 2023 but the Investigating Officer has not recorded the statement of the councilor. He has not stated the name of the petitioners herein other than the name of the petitioner no.7.

12. The mother of the victim has not stated about the alleged incident of 5th December, 2023 and as regard to the alleged incident of 27th October, 2023, she is only a hearsay witness. She has also not stated about any specific allegation against the petitioners.
13. The opposite party no.2 though in her written complaint has mentioned the name of all the petitioners but in the statement recorded under Section 161 of the Cr.P.C. the opposite party has also not specified with regard to the involvement of the petitioner nos. 1 to 6.
14. On perusal of FIR and charge sheet would indicate that no substantial and specific allegation have been made against the petitioner nos. 1 to 6. It is also reveals from the case diary that the petitioner nos. 1 to 6 never resided with the petitioner no. 7 and the victim.
15. In the recent judgment of the Hon'ble Supreme Court in the case of ***Dara Lakshmi Narayana & Ors. -vs- State of Telangana & Anr.*** reported in **2024 INSC 953** held that :

“25. A mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is a well-recognised fact, borne out of judicial experience, that there is often a tendency to implicate all the members of the husband's family when domestic disputes arise out of a matrimonial discord. Such generalised and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis for criminal prosecution. Courts must exercise caution in such cases to prevent misuse of legal provisions and the legal process and avoid

unnecessary harassment of innocent family members. In the present case, appellant Nos.2 to 6, who are the members of the family of appellant No.1 have been living in different cities and have not resided in the matrimonial house of appellant No.1 and respondent No.2 herein. Hence, they cannot be dragged into criminal prosecution and the same would be an abuse of the process of the law in the absence of specific allegations made against each of them.”

- 16.** Considering the above, this Court did not find any sufficient materials against the petitioner no.1, namely, Madhabi Saha, the petitioner No. 2, namely, Mitali Saha, the petitioner no.3, namely, Uttam Kumar Saha, the petitioner no. 4, namely, Manti Saha, the petitioner no. 5, namely, Sagarika Saha and the petitioner no. 6, namely, Samiran Saha for the offence under Section 498A/328/323 of the Indian Penal Code, 1860 read with Section 3/4 of the Dowry Prohibition Act.
- 17.** In view of the above proceeding of Alipurduar Women Police Station Case No. 13 of 2024 dated 13th March, 2024, under Section 498A/328/323 of the Indian Penal Code, 1860 read with Section 3/4 of the Dowry Prohibition Act, Charge Sheet No. 12 of 2024 corresponding to G.R. Case No. 442 of 2024 pending before the Learned Additional Chief Judicial Magistrate, Alipurduar against the petitioner nos. 1 to 6 are hereby set aside and quashed. This Court is not inclined to set aside the proceeding against the petitioner no. 7, namely, Raju Saha.
- 18.** The petitioner nos. 1 to 6 are discharged from their respective bail bonds.

19. C.R.R. No. 276 of 2024 is disposed of.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this Judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)