

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

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

CRR 512 of 2024

**Mrs. Krishna Bhattacharya
-Vs.-
The State of West Bengal & Anr.**

For the Petitioner	: Mr. Bikramaditya Ghosh Mr. Ved Rai Mr. Mayank Bhandari
For the State	: Mr. Aditi Shankar Chakraborty, Ld. APP Mr. Abhijit Sarkar
Hearing concluded on	: 31.07.2025
Judgment on	: 02.08.2025

Uday Kumar, J.:-

1. This revisional application under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter "Cr.P.C."), has been filed by Mrs. Krishna Bhattacharya (hereinafter referred to as "the Petitioner"), seeks the quashing of Charge-sheet No. 328 of 2021 and all consequential proceedings arising from Cooch Behar P.S. Case No. 51/2021, dated January 26, 2021, under Section 31 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter "the DV Act"), and is presently pending before the Learned Chief Judicial Magistrate at Cooch Behar. The Petitioner asserts that she has been falsely implicated in this case, contending that she is no way related to the allegations, as she has been

residing at Mumbai and has not visited Cooch Behar for the past 42 years. She further highlights her advanced age and various ailments, as supported by a medical certificate dated October 25, 2024, and a medical report of the same date annexed at Annexure – P1, arguing that her involvement is highly improbable and that the continuation of proceedings constitutes an abuse of the legal process.

- 2.** The genesis of this criminal proceedings lies in a written complaint lodged by Opposite Party No. 2, Babita Roy Chowdhury, with the Inspector-in-Charge, Kotwali Police Station, on January 20, 2021. This complaint followed an earlier action initiated by Opposite Party No. 2 under Section 12 of the DV Act, which led to the registration of Misc. D.V. Case No. 57 of 2020 before the Learned Judicial Magistrate, 3rd Court, Cooch Behar.
- 3.** In Misc. D.V. Case No. 57 of 2020, an interim order was passed by the Learned Trial Court on September 22, 2020. This order explicitly restrained Debasish Roy Chowdhury, Pradip Chatterjee Mridula Chakraborty, Debojyoti Roy Chowdhury and Krishna Bhattacharya (the Petitioner), from selling the complainant's in-laws' property, known as "Roy Chowdhury House," and from evicting her from the said house. This interim order was subsequently extended until January 29, 2021, despite that the accused persons, including the Petitioner, allegedly proceeded to sell the "Roy Chowdhury House," thereby violating the Court's directive. This alleged breach forms the basis of the charge under Section 31 of the DV Act. Following the complaint dated January 20,

2021, impugned proceeding was registered, which is the subject of the present revisional application.

4. Mr. Bikramaditya Ghosh, Learned Advocate appearing for the Petitioner, strenuously submitted that the allegations against the Petitioner are absolutely false and frivolous. He contended that the Petitioner has never visited Cooch Behar since the last 42 years, residing permanently in Mumbai. He argued that under no stretch of imagination, her involvement in the alleged crime can be drawn.
5. Mr. Ghosh further highlighted that the Petitioner is a heptagenarian, currently suffering from various ailments, as evidenced from medical documents annexed to the petition (Annexure – P1). He asserted that it is not possible for her to be involved in this alleged crime and that she has been falsely implicated. As such, he concluded that the entire proceeding against the Petitioner amounts to a patent abuse of the process of the Court and deserves to be quashed.
6. On the other hand, Mr. Aditi Shankar Chakraborty, Learned Public Prosecutor for the State, contended that the allegations have already been investigated by an impartial agency, and after recording the statements of witnesses such as Sambhu Bhowmick, Ranapratap Paul, and Sila Bhaduri, the charge-sheet was submitted upon finding the allegation to be *prima facie* true. He specifically referred to the statement of Sambhu Bhowmick (at Page 7 of the Case Diary), wherein it was explicitly stated that "Roy Chowdhury House" was sold during subsistence of the Trial Court's interim order, which was extended till

January 29, 2021. It, therefore, constituting an offense, liable to be dismissed summarily.

7. The pivotal question for the determination is whether the continuation of the criminal proceedings under Section 31 of the DV Act, against the Petitioner, Mrs. Krishna Bhattacharya, is justified or whether it constitutes an abuse of the process of law.
8. To determine this question, it is imperative to analyse the ingredients of Section 31 of the DV Act. This Section penalizes a "breach of protection order, or of an interim protection order, by the respondent." For an offense under this provision to be established, it is indispensable to prove:
 - (a) the existence of a valid protection or interim protection order,
 - (b) that the accused person was indeed a "respondent" within the meaning of the DV Act against whom such order was passed, and
 - (c) that the said respondent committed a deliberate breach of the order. Crucially, the order must have been served upon the respondent or they must have knowledge of it, for a breach to be attributed.
9. I have meticulously considered the factual assertions made by the Petitioner. Her contention that she has been residing in Mumbai for the past 42 years and has not visited Cooch Behar during this period is a significant factor. While it is true that a criminal offense is against the State and an accused cannot escape liability merely by remote residence,

the burden remains on the prosecution to present *prima facie* evidence demonstrating actual involvement. In the context of a sale of immovable property and an alleged violation of an interim order, direct or indirect participation, or at least knowledge coupled with a role in the breach, would be necessary. The allegations in the complaint and charge-sheet, particularly against the Petitioner, appear to be general and omnibus in nature, lacking specific details as to *how* an 80-year-old lady, residing in Mumbai for over four decades, actively participated in or facilitated the alleged sale or breach of the order in Cooch Behar.

10. The medical documents (Annexure P-1) submitted by the Petitioner, indicating her advanced age and various ailments, further strengthen the argument regarding the sheer improbability of her physical involvement in the alleged acts. While not an absolute bar to prosecution, such circumstances demand a higher degree of particularity and cogency in the allegations to justify putting an heptagenarian, distant relative to the rigors of a criminal trial.
11. It is also noteworthy that the underlying Domestic Violence Case (Misc. D.V. Case No. 57 of 2020) and a related proceeding (Misc. Case No. 75 of 2020), both initiated by the complainant, have reportedly been dismissed for default. While the dismissal of the foundational DV proceedings does not automatically nullify a Section 31 criminal case (which penalizes a *past* breach), it certainly impacts the *prima facie* strength of the prosecution against those who claim no direct knowledge or involvement in the original DV proceedings or orders. More critically, the Petitioner's assertion that she was not a party to, nor served with, any protection

order under Section 19 of the DV Act, if established, would directly undermine a fundamental ingredient for a charge under Section 31, i.e., that the accused was a "respondent" who breached the order. The charge-sheet itself does not offer specific details on how the order was served on or brought to the knowledge of this particular Petitioner.

- 12.** The inherent powers of this Court under Section 482 Cr.P.C. are to be exercised to prevent the abuse of the process of any Court or otherwise to secure the ends of justice. The Hon'ble Supreme Court, in numerous pronouncements, has emphasized that criminal proceedings, especially those arising from matrimonial disputes, should not be allowed to continue when they are vexatious, oppressive, or amount to an abuse of legal process. While the instant case is not one of mutual consent divorce and settlement, the principles of preventing harassment and ensuring justice are equally applicable. To allow a criminal prosecution under Section 31 of the DV Act to proceed against about 80-year-old lady, residing far away for over four decades, suffering from ailments, and against whom only vague and general allegations of a breach are made, without specific acts attributed or clear evidence of her being a "respondent" who deliberately breached the order, would undoubtedly constitute a clear abuse of the process of this Court. It appears to be a classic case of dragging in a distant relative without sufficient basis.

- 13.** In the event of this rival contentions advanced by the learned Advocates, and the well-established principles of law, this Court is of the considered and firm view that the continuation of the impugned criminal proceedings against the Petitioner, Mrs. Krishna Bhattacharya, would

indeed constitute a patent and indefensible abuse of the process of the Court. The *prima facie* material on record is insufficient to establish her direct or proximate involvement in the alleged breach of the protection order, especially when considering her unique personal circumstances (advanced age, severe ailments, and prolonged non-residence in Cooch Behar). To compel her to face the rigors of a criminal trial under these circumstances would be unjust and oppressive.

- 14.** Therefore, to secure the ends of justice and prevent the abuse of the process of law, the impugned criminal proceeding is liable to be and is hereby quashed in respect of the Petitioner.
- 15.** The revisional application, CRR 512 of 2024, along with application, if any, is hereby allowed.
- 16.** Charge-sheet No. 328 of 2021 and all connected proceedings arising out of Cooch Behar P.S. Case No. 51/2021, dated January 26, 2021, in G.R. Case No. 101/2021, under Section 31 of the Protection of Women from Domestic Violence Act, 2005, currently pending before the Learned Chief Judicial Magistrate at Cooch Behar, are hereby quashed insofar as they pertain to the petitioner, Mrs. Krishna Bhattacharya.
- 17.** There shall be no order as to costs.
- 18.** Any interim order or orders, if any, granted hitherto, stand vacated with immediate effect.
- 19.** The Trial Court Records (TCR), if any, shall be forthwith transmitted to the Learned Chief Judicial Magistrate, Cooch Behar, for necessary action in respect of the other accused, if any.
- 20.** The Case Diary, if any, be returned forthwith.

- 21.** Let a copy of this judgment be sent to the learned court below forthwith for necessary information and compliance.
- 22.** 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.)