

30.06.2026

Serial no. 12

[Srimanta]

Ct. No. - 29

CRR 110 of 2026

In re : An Application under Sections 482 of the Code of Criminal Procedure, 1973 corresponding to Section 528 of the Bharatiya Nagarik Sureaksha Sanhita, 2023

-And-

In the matter of : PARTHA PRATIM KUNDU AND OTHERS

... .. Petitioners

*Mr. Somnath Roy Chowdhury,
Mrs. Arpita Chowdhury, Advocates*

... .. For the Petitioners.

*Mr. Kallol Mondal, Ld. P.P.,
Mr. Imran Siddiqui, Advocate*

.....For the State.

1. Affidavit-of-service filed in Court today be taken on record.
2. Private opposite party no. 2 is not represented.
3. In this application, the petitioners have prayed for quashment of the proceeding being GR Case No. 1685/2018 presently pending before learned Judicial Magistrate, 17th Court under Sections 85/316(2)/3(5) of BNS, 2023 arising out of Jorabagan Police Station Case No. 130 dated 5th December, 2018.
4. Being aggrieved by the aforesaid proceeding, it has been alleged that the purported marriage between the petitioner and the de facto complaint has already been declared as null and void by a competent Court of law vide order dated 27.03.2019 passed in MAT Suit No. 375/2018. Therefore,

in the absence of a valid marriage, the proceeding under Section 498A of the Indian Penal Code is not maintainable against the present petitioner. So far as the allegations leveled against the petitioners under Section 406 of the Indian Penal Code are concerned, learned Counsel for the petitioners submit that opposite party no. 2 had received all her streedhan articles and all of which at present lie in the custody of the opposite party no. 2. He further submits that it would reflect from the order dated 18.01.2019 that the ad interim bail granted to the petitioner was confirmed mainly considering the fact that all the streedhan articles have been duly returned to the de facto complainant. Therefore, further continuance of the impugned proceeding against the petitioners would be nothing but mere abuse of the process of the Court.

5. Learned Counsel appearing on behalf of the State placed a report along with recorded statement of de facto complainant dated 19.06.2026, which discloses that the de facto complainant has already got married to one Sanjib Bose and she got back all the streedhan articles and she has also stated that she does not want to proceed with the case any further. Therefore, learned Counsel for the State submits that dispute is private and matrimonial in nature and when the de facto complainant has already settled the

dispute and decided not to support the imputations leveled in the complaint, conviction of the petitioners is bleak.

6. Having considered the submissions made on behalf of both the parties, it appears that the alleged marriage in between the petitioner and the opposite party no. 2, has been annulled by a decree made by a competent Court of law on the ground of non-consummation of marriage. It further appears that the de facto complainant while deposing in Matrimonial Suit No. 375/2018, has stated that she has filed the case as there was no consummation of marriage and apart from that she has get no other allegation against her husband. Such admissions are material in the present scenario. In this context, reliance has been placed upon a judgment passed by a Coordinate Bench of this Court in **Vargab Mallik & Ors. –Vs.- The State of West Bengal & Anr.** which states that it is settled law that case may come and go, but statements made in evidence shall remain for ever and for all purposes too, allowed by law, such as to be proceeded with as admission, when they are not rebutted or to be confronted with, under Section 145 of Evidence Act.
7. In view of aforesaid facts and circumstances of the case, I find that further continuance of the impugned proceeding would be mere abuse of the process of the Court in view of the guidelines laid down in the judgment of **State of**

Haryana Vs. Bhajan Lal reported in **1992 Supp(1) SCC**

335 which states one of the grounds as follows:-

“where the allegations made in the FIR or complaint are so absurd and inherently improbable, on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused”,

8. In view of above, CRR/110/2026 is allowed.
9. As a sequel, the impugned proceeding in G.R. Case No. 1685/2018 presently pending before learned Judicial Magistrate, 17th Court at Calcutta is hereby quashed.
10. Urgent photostat certified copy of this order, if applied for, be provided to the parties upon compliance with all requisite formalities.
11. All parties shall Act on the server copy of this order duly downloaded from the official website of this court.

(Dr. Ajoy Kumar Mukherjee, J.)