

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

PRESENT:

THE HON'BLE JUSTICE UDAY KUMAR

CRR 619 OF 2025

**MONIZA FAROOQUEE & ANR.
-VS-
STATE OF WEST BENGAL & ANR.**

For the Petitioners : Mr. Debabrata Acharyya,
Mr. Sital Samanta

For the State : Mr. Arindam Sen,
Ms. Sudeshna Das

Hearing concluded on : 30.03.2026

Judgment on : 28.04.2026

UDAY KUMAR, J.: –

1. INTRODUCTION

1.1. This revisional application, preferred under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 482 of the Code of Criminal Procedure, 1973), is directed towards the quashing of the proceedings in G.R. Case No. 2655 of 2023. The matter originates from Beniapukur Police Station Case No. 275 of 2023 dated 08.11.2023,

presently pending before the Learned Judicial Magistrate, 2nd Court, Sealdah, South 24-Parganas.

1.2. The petitioners herein, Moniza Farooquee and Sharik Hossain, are the married sister-in-law and brother-in-law, respectively, of the Opposite Party No. 2 (the de-facto Complainant). They have been impleaded for alleged commission of offences punishable under Sections 498A, 406, and 34 of the Indian Penal Code, read with Sections 3 and 4 of the Dowry Prohibition Act.

1.3. The foundational challenge to the continuation of the impugned proceedings rests on the contention that the petitioners have been "roped in" to the criminal net solely by virtue of their matrimonial affinity to the principal accused (the husband). This challenge is predicated on three distinct yet interconnected grounds:

- i. a documented domestic severance exceeding a decade;
- ii. the conspicuous absence of specific prima facie material linking them to the alleged overt acts of cruelty; and
- iii. a manifest factual admission by the complainant in her own written statement which effectively negates the essential ingredients of "entrustment" required for a charge of Criminal Breach of Trust.

2. DETAILED BACKGROUND FACTS

- 2.1. The marital union between the Complainant, Sania Tasnim, and Meraj Ahmed (the brother of Petitioner No. 1) was solemnized on 28.10.2022. According to the narrative set forth in the First Information Report (FIR), the relationship reportedly deteriorated within two months of the marriage, allegedly on account of unsatisfied dowry demands amounting to ₹3,00,000/- intended for the husband's business. This discord eventually led to the complainant departing from the matrimonial home on 07.04.2023.
- 2.2. A pivotal fact, which remains largely uncontroverted, is that the petitioners were never constituents of the immediate matrimonial household. Petitioner No. 1 entered into wedlock with Petitioner No. 2 on 28.12.2014—nearly eight years prior to the complainant's marriage. Since their union, they have maintained an entirely independent and settled establishment in Tangra, Kolkata. This residence is not only geographically distinct from the matrimonial home in Beniapukur but is also functionally autonomous. Petitioner No. 2 is a professional (Senior Associate at PwC), and the couple manages a separate nuclear household with their two minor children.
- 2.3. Following the complainant's departure from the matrimonial home in April 2023, there ensued a significant and unexplained silence of six months. It was only on 09.10.2023

that the FIR was lodged at Beniapukur Police Station. In this belated narrative, the petitioners were impleaded alongside the principal accused through generalized, "omnibus" allegations of "instigation" and "frequent visits." Crucially, the complaint is conspicuously void of any specific overt act, documented date, or time-stamped incident of the alleged torture attributed to these distantly residing relatives.

2.4. The investigative process yielded further material that contradicts the petitioners' involvement. During the seizure conducted on 23.11.2023 at the matrimonial home on Tiljala Road, all recovered articles were found in the possession of the husband and his parents. No property or incriminating material was traced to the petitioners' residence in Tangra. Most significantly, the complainant's own written statement (Annexure "C") categorically records that her gold ornaments (*Stridhan*) were kept in the exclusive custody of her father-in-law. This admission effectively negates the essential legal ingredients of "entrustment" or "misappropriation" as against the present petitioners.

2.5. Notwithstanding this apparent vacuum of evidence, Charge Sheet No. 09 of 2024 was submitted on 05.01.2024, and the Learned Magistrate took cognizance of the offences on 08.02.2024. The petitioners have moved this Court contending that the continuation of the trial against them, in

the absence of foundational legal ingredients, constitutes a manifest abuse of the process of law.

3. QUESTIONS FOR DETERMINATION

3.1. Following a rigorous analysis of the Case Diary, the documented domestic severance of the parties, and the prevailing judicial mandates, this Court frames the following questions for determination:

- I. Whether the allegations against Petitioner Nos. 1 and 2, restricted to the nebulous and uncorroborated term "instigation," are generic and "omnibus" in nature, thereby failing to satisfy the requirement of specific overt acts and temporal proximity necessary to constitute "Cruelty"?
- II. Whether the admitted separate residence of the petitioners since 2014, coupled with their settled professional and domestic status, renders the allegations of "daily" presence and systematic torture at the matrimonial home in Beniapukur logically and legally improbable?
- III. Whether a *prima facie* case of Criminal Breach of Trust is maintainable against the petitioners when the complainant's own written statement explicitly identifies the father-in-law as the sole custodian of

her ornaments, and when the investigation confirms a total absence of recovery from the petitioners' premises?

- IV. Whether the record contains any substantive material to establish a "prior meeting of minds" or a synchronized criminal objective between the principal accused and these distantly residing petitioners, sufficient to attract the doctrine of vicarious liability?
- V. Whether the six-month unexplained delay in lodging the FIR, viewed in the context of the "tendency to rope in" settled relatives, indicates a malicious intent to wreak vengeance, thereby rendering the continuation of this proceeding a manifest abuse of the process of law?
- VI. Whether, upon a holistic assessment of the materials on record, any *prima facie* case is established against the petitioners that would warrant the rigors of a criminal trial?

4. SUBMISSIONS ON BEHALF OF THE PETITIONERS

- 4.1. Mr. Debabrata Acharyya, the learned counsel appearing for the petitioners, in assailing the sustainability of the Charge Sheet and the underlying FIR, submitted that the petitioners

have been victimized by an instrumental abuse of the criminal machinery. He forcefully contended that Petitioner No. 1 (the married sister-in-law) and Petitioner No. 2 (her husband) have maintained a complete domestic severance from the matrimonial household for over a decade. Residing independently in Tangra since 2014, their lives are governed by separate domestic and professional obligations. Mr. Acharyya emphasized that Petitioner No. 2, as a Senior Associate at a reputed firm (PwC), and Petitioner No. 1, as a mother of two, lead a settled life that is fundamentally incompatible with the narrative of constant interference in the Beniapukur household.

- 4.2. Regarding the charges of "Cruelty," Mr. Acharyya argued that the prosecution's narrative is purely "omnibus" in nature. It was submitted that the mere use of the label "instigation," without the accompaniment of specific dates, documented overt acts, or a discernible mode of incitement, fails to satisfy the statutory threshold of Section 498A IPC. Relying on the landmark ratio in *Preeti Gupta & Anr. vs. State of Jharkhand (2010)*, he asserted that the "tendency to rope in" distantly residing relatives in matrimonial disputes has become a pervasive social malaise. He argued that the mere geographical presence within the same city cannot bridge the gap created by ten years of independent nuclear living.

- 4.3. Adverting to the charge of Criminal Breach of Trust, Mr. Acharyya pointed toward a "foundational estoppel" appearing within the complainant's own written statement (Annexure "C"). He highlighted that the complainant explicitly identified the father-in-law as the sole custodian of her gold ornaments. In light of this judicial admission, coupled with the fact that the Seizure List confirms no recovery was made from the petitioners' premises, it was argued that the essential ingredient of "entrustment" is legally non-existent. Invoking the principle in *Rashmi Kumar vs. Mahesh Kumar Bhada* (1997), he maintained that a charge of misappropriation cannot be sustained against parties who never held dominion over the property.
- 4.4. The invocation of Section 34 IPC was challenged on the ground that the prosecution failed to establish a "meeting of minds." It was argued that "common intention" requires a pre-arranged plan or synchronized participation, neither of which find any reflection in the Case Diary. Mr. Acharyya argued that criminal liability cannot be inferred merely from matrimonial affinity; it requires a documented "nexus of intent" that is conspicuously absent in the present investigation. Relying on *Ganesh Das vs. State of Assam* (2009), he submitted that the petitioners' separate residence makes a "shared criminal objective" logically improbable.

4.5. Finally, Mr. Acharyya raised the issue of the unexplained six-month delay in lodging the FIR. It was submitted that the interval between the separation in April 2023 and the FIR in October 2023 indicates a period of "legal brainstorming" utilized to fabricate a narrative against the petitioners. Relying on the mandates of *State of Haryana vs. Bhajan Lal (1992)* and *Kahkashan Kausar @ Sonam vs. State of Bihar (2022)*, counsel concluded that the proceedings are maliciously intended to wreak vengeance. Accordingly, the petitioners prayed for the quashing of the proceedings to prevent the judicial process from being utilized as a tool of harassment.

5. SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTIES

5.1. Mr. Arindam Sen, learned counsel for the State, supported by the learned counsel for the de-facto complainant, vehemently opposed the prayer for quashing. It was submitted that with the filing of Charge Sheet No. 09 of 2024, the investigation has reached a stage of maturity. Counsel contended that at this interlocutory stage, the High Court is not required to conduct a "mini-trial" or weigh the evidence with mathematical precision. Relying on the settled principles in *State of Haryana vs. Bhajan Lal (1992)*, it was argued that since the allegations in the FIR and the statements recorded under Section 161 Cr.PC (Section 180 BNSS) disclose the

commission of cognizable offences, the inherent powers of this Court should not be exercised to stifle a legitimate prosecution.

5.2. Addressing the allegations under Section 498A IPC, the Opposite Parties submitted that the term "instigation" is not a mere label but a triable factual reality. It was argued that in the contemporary Indian socio-matrimonial context, physical distance does not equate to a lack of influence. Counsel contended that the petitioners, despite their residence in Tangra, maintained a "pivotal presence" through frequent visits and psychological provocation. The submission maintained that "mental cruelty" is often subtle and exerted through consistent interference, making the petitioners' degree of involvement a matter of evidence to be adjudicated during the trial.

5.3. On the charge of Criminal Breach of Trust under Section 406 IPC, Mr. Sen submitted that the concept of "dominion over property" within a joint family setup is fluid. While the complainant acknowledged the father-in-law's physical custody, it was contended that the petitioners acted in concert with the principal accused to withhold the property. The submission asserted that the lack of recovery from the petitioners' specific residence is not a ground for discharge at this threshold, as Section 34 IPC binds all family members

who participated in the collective demand and subsequent withholding of the *Stridhan*.

- 5.4. Regarding the six-month delay in lodging the FIR, the de-facto complainant submitted that a woman in a fractured marriage often undergoes a period of immense trauma and attempts at social reconciliation before seeking legal recourse. It was argued that such a hiatus should not be viewed through a lens of suspicion or as "legal brainstorming," but rather as a reflection of the complainant's hesitance to permanently sever marital ties. Counsel argued that in matrimonial offences, the spirit of the law prioritizes the victim's plight over procedural technicalities like delay.
- 5.5. Finally, the Opposite Parties submitted that the statements recorded under Section 161 Cr.PC from the complainant's mother and brother provide sufficient *prima facie* material to proceed. It was argued that quashing the proceedings against the sister-in-law and brother-in-law at this stage would prejudice the trial and ignore the "common intention" underlying the demand for ₹3,00,000/-. The State concluded by asserting that the petitioners' defences, including their separate residence and professional status, constitute "triable issues" of fact that must be tested in cross-examination before the Learned Trial Court.

6. DISCUSSION FOR DETERMINATION OF QUESTIONS

6.1. ADJUDICATION ON QUESTION NO. I: THE LEGAL STANDARD OF "CRUELTY" AND SPECIFICITY OF ALLEGATIONS

6.1.1. The legislative intent behind Section 498A of the Indian Penal Code is to provide a protective umbrella to women against "Cruelty" by the husband or his relatives. However, the statute defines "Cruelty" under two distinct limbs: (a) willful conduct likely to drive a woman to suicide or cause grave injury, or (b) harassment to coerce her to meet unlawful property demands. In the context of a criminal trial, these ingredients must be established against each accused individual with specific factual precision. The term "relative" does not imply a collective criminal liability; rather, it requires a distinct overt act that links the accused to the alleged victimization.

6.1.2. Upon a meticulous examination of the FIR and the statements recorded under Section 161 of the Cr.PC (Section 180 BNSS), this Court finds that the petitioners, Moniza Farooquee and Sharik Hossain, are impleaded primarily on the strength of a singular, nebulous allegation, that they "instigated" the principal accused (the husband) to intensify his torture. The records are conspicuously silent on the specific verbal or physical triggers of such instigation;

the dates or times when such instigation purportedly occurred; and the proximate link between the petitioners' occasional visits from Tangra and the husband's alleged escalations of cruelty in Beniapukur.

6.1.3. The petitioners place heavy reliance on the ratio in *Preeti Gupta & Anr. vs. State of Jharkhand* (2010) 7 SCC 667. In that landmark judgment, the Hon'ble Supreme Court, at Paragraph 32, observed:

"The allegations against the appellants are generic in nature and no specific role is assigned to them in the commission of the crime... It would be a travesty of justice to compel the appellants to undergo the rigors of a criminal trial."

Further, at Paragraph 35, the Apex Court noted:

"The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. Such allegations of the complaint are required to be scrutinized with great care and circumspection."

6.1.4. The learned counsel for the State attempted to distinguish the ratio of *Preeti Gupta* by contending that the relatives in that case resided in different cities, whereas here, both residences are within Kolkata. This Court finds such a distinction legally fragile. For the purpose of quashing proceedings against distant relatives, "distance" is not

merely a geographic metric but a domestic and functional severance. The petitioners have established, through marriage certificates and residential records, that they have maintained a separate household for over ten years. Petitioner No. 2's professional rigor as a Senior Associate at PwC further underscores a lifestyle that is functionally independent of the day-to-day affairs of the complainant.

6.1.5. In view of the aforesaid legal and factual analysis, this Court arrives at the following definite findings that, the allegations against Petitioner Nos. 1 and 2 are purely "omnibus" and vague. The term "instigation" as utilized by the prosecution, is a legal conclusion devoid of a factual substrate. The decade-long domestic severance of the petitioners makes the generic claims of harassment inherently improbable. To allow the trial to proceed on such nebulous material would be a violation of the fundamental right to a fair legal process and would also be an exercise in judicial futility. Consequently, this question is answered in the affirmative for the petitioners as their impleadment is found to be a manifest abuse of the process of law, and the charge under Section 498A IPC as against them is found to be unsustainable in law.

6.2. ADJUDICATION ON QUESTION NO. II: THE LOGICAL IMPROBABILITY OF DAILY INTERFERENCE AND DOMESTIC SEVERANCE

6.2.1. In assessing a *prima facie* case under Section 498A IPC, the Court cannot operate in a vacuum of social reality. The fundamental test for the continuation of a criminal proceeding is whether the allegations, when viewed through the lens of common human conduct and documented facts, possess a "hallmark of probability." Where an allegation is so inherently improbable that no prudent person could accept it as the basis for a trial, the threshold for judicial intervention is met.

6.2.2. The complainant's primary grievance against these petitioners, rests upon the assertion that they visited the matrimonial home in Beniapukur "almost every day" to facilitate or instigate torture. However, this Court finds an undisputed factual reality that stands in stark contrast to this narrative:

- i. Petitioner No. 1 and Petitioner No. 2 were married on 28.12.2014 and have maintained a settled, independent household in Tangra for over a decade.
- ii. Petitioner No. 2 is a Senior Associate at PwC, a role that entails significant professional responsibilities and specific working hours.

- iii. The petitioners are parents to two minor children, managing their own domestic and educational requirements.

Logically, the claim that a working professional and a mother of two, residing in a different police station area, would dedicate their daily routine to interfering in the micro-affairs of a separate household in another locality stretches the bounds of human probability.

- 6.2.3. This Court relies upon the ratio in *Geeta Mehrotra vs. State of U.P.* (2012) 10 SCC 741. At Paragraph 20, the Hon'ble Supreme Court observed:

"Where the relatives of the husband were not even living with the couple and there were no specific allegations, it would be an abuse of the process of law to allow the prosecution to continue."

Further, the Court refers to the protective ratio in *Preeti Gupta & Anr. vs. State of Jharkhand* (2010) 7 SCC 667, specifically Paragraph 36, where the Apex Court noted:

"It is a matter of common knowledge that exaggerated versions of the incident are frequently reflected in matrimonial complaints... The tendency of implicating husband and all his near relatives is also not uncommon."

- 6.2.4. The learned counsel for the State argued that geographical proximity within the city limits of Kolkata allows for daily

interference. This Court, however, must distinguish between geographical proximity and domestic integration. In the case of *Geeta Mehrotra*, the Court emphasized that when the accused do not share the same roof, the burden on the prosecution to show specific instances of interference is significantly higher.

6.2.5. In the present case, the Case Diary is conspicuously void of any corroborative material, such as travel logs, neighbor statements, or digital footprints, that would substantiate this "daily" presence. The mere proximity of two localities in a metropolitan setup does not bridge the domestic gap created by ten years of independent nuclear living. Therefore, the prosecution's attempt to distinguish the cited cases based on city limits is a narrow interpretation that fails to account for the functional domestic severance established by the petitioners.

6.2.6. Based on the professional and domestic status of the petitioners, this Court arrives at the following definite findings:

- i. The allegation of "daily" interference is not only evidentially weak but logically implausible.
- ii. The prosecution has failed to produce any material to bridge the gap between the petitioners' separate

residence and their alleged constant presence at the scene of the crime.

iii. The narrative appears to be an ex post facto embellishment intended to "rope in" the extended family, which falls squarely within the prohibition laid down in *Geeta Mehrotra*.

6.2.7. Consequently, Question No. II is also answered in the affirmative for the petitioners, and this Court finds the allegation of daily interference to be a figment of legal brainstorming rather than a reflection of factual reality.

6.3. ADJUDICATION ON QUESTION NO. III: THE FACTUAL ESTOPPEL OF ENTRUSTMENT (SECTION 406 IPC)

6.3.1. The offence of Criminal Breach of Trust, as defined under Section 405 IPC and punishable under Section 406, is predicated on the dual pillars of "entrustment" and "dishonest misappropriation." In matrimonial disputes involving *Stridhan*, the prosecution must establish that the complainant handed over her property to a specific person, who then exercised "dominion" over it and subsequently refused to return it upon demand. In criminal jurisprudence, entrustment is an individual act; it cannot be inferred collectively against an entire family without distinct evidence of a transfer of possession.

6.3.2. Upon a meticulous scrutiny of the complainant's own written statement, which forms the bedrock of the FIR, this Court finds a manifest inconsistency that serves as a legal discharge for the petitioners. a meticulous scrutiny of the complainant's own written statement, which forms the bedrock of the FIR, this Court finds a staggering contradiction to the prosecution's theory. The complainant has categorically recorded:

"Even my all-gold ornaments were kept in the custody of father-in-law and I was not given opportunity to use gold ornaments."

This statement constitutes an explicit factual admission identifying the father-in-law as the exclusive custodian of the property. Legally, this admission creates a factual estoppel against the complainant. Having identified one specific individual as the trustee of her ornaments, she cannot, through subsequent "omnibus" allegations, extend that criminal liability to Petitioner Nos. 1 and 2, who have maintained a separate domestic setup since 2014.

6.3.3. This Court relies on the ratio of the Hon'ble Supreme Court in *Rashmi Kumar vs. Mahesh Kumar Bhada* (1997) 2 SCC 397. In that case, the Court clarified at Paragraph 13:

"The property must have been entrusted to the accused or the accused must have dominion over the property. The accused must have dishonestly misappropriated or converted it to his own use."

Furthermore, this Court refers to the ratio in *Onkar Nath Mishra vs. State (NCT of Delhi)* (2008) 2 SCC 561, where the Apex Court held that in the absence of a specific allegation of entrustment against a particular relative, a charge under Section 406 IPC cannot stand.

6.3.4. The learned counsel for the State argued that in a joint family, the husband and his siblings are deemed to have "constructive custody" of the dowry and *Stridhan*. However, this Court refuses to accept this ratio in the present facts. In the cases where "joint custody" was discussed, the accused relatives usually resided under the same roof as the complainant. This case is factually distinct because:

- a. The petitioners have led a severed domestic existence for a decade, precluding the possibility of "shared dominion."
- b. The Seizure List dated 23.11.2023 confirms that all articles were recovered exclusively from the matrimonial home at Tiljala Road.

- c. No recovery was made from the petitioners' premises in Tangra, corroborating the absence of possession.

The ratio in *Rashmi Kumar* demands a clear "dominion." Since the complainant herself admits that the father-in-law held the custody, and since no physical possession was ever traced to the petitioners, the charge against them lacks its primary statutory ingredient. One cannot "misappropriate" that which one never "possessed." Therefore, the ratio in *Rashmi Kumar*, (demands clear dominion,) is conspicuously found absent here.

6.3.5. In view of the evidentiary materials and the complainant's own admissions, this Court arrives at the following definite findings:

- i. The essential ingredient of "entrustment" is legally non-existent as against Petitioner Nos. 1 and 2.
- ii. The complainant's admission in Annexure "C" operates as a factual estoppel, absolving these petitioners of any role in the custody of ornaments.
- iii. The investigation has failed to produce a single seizure memo or witness statement suggesting

that the petitioners ever held "dominion" over the property.

- 6.3.6. Therefore, this question is answered in favour of the petitioners, and the charge under Section 406 IPC as against them is found to be a gross overreach of the criminal machinery.

6.4. ADJUDICATION ON QUESTION NO. IV: THE CONCEPTUAL FAILURE OF COMMON INTENTION (SECTION 34 IPC)

- 6.4.1. Regarding the applicability of the doctrine of constructive liability, Section 34 of the IPC serves as a rule of evidence that attributes vicarious liability to individuals acting in furtherance of a "common intention." To attract this provision, the prosecution must establish more than a mere coincidence of presence or a shared biological lineage; it requires a "prior meeting of minds" and synchronized participation in the criminal act. Common intention is a state of mind that must be manifested through overt conduct pointing unequivocally to a pre-meditated, collective criminal objective.
- 6.4.2. A rigorous audit of the Case Diary and the materials on record reveals that the prosecution's narrative is devoid of any temporal or factual nexus between the husband's alleged conduct in Beniapur and the petitioners' residence

in Tangra. For Section 34 to be legally sustainable, the record must reflect:

- i. Evidence of call logs or digital records suggesting a pre-arranged plan to harass the complainant.
- ii. Specific incidents where the petitioners and the husband acted in unison to perpetrate cruelty.
- iii. Material suggesting the petitioners shared the specific goal of coercing the complainant for the additional demand of ₹3,00,000/-.

The record is conspicuously silent on all these fronts.

6.4.3. This Court relies on the ratio in *Ganesh Das vs. State of Assam* (2009) 15 SCC 154. At Paragraph 12, the Hon'ble Supreme Court observed:

"Section 34 has been enacted on the principle of joint liability in the doing of a criminal act. The section is only a rule of evidence and does not create a substantive offence. The distinctive feature of the section is the element of participation in action."

Further, in *Ramesh vs. State of T.N.* (2005) SCC (Cri) 735, the Court emphasized at Paragraph 6:

"The bald allegations made against the sister-in-law seem to suggest the anxiety of the informant to rope in as many of the husband's relations as possible rather than a genuine shared intent."

6.4.4. The learned counsel for the State argued that common intention can develop "on the spot" and that the petitioners' frequent visits satisfy the "participation" requirement. This Court refuses to accept this contention. The ratio in cases where "on the spot" intention is applied usually involves a single, continuous transaction of violence. In the present matrimonial context:

- i. The alleged acts of cruelty were periodic and localized to the Beniapukur household.
- ii. The petitioners lead a severed domestic existence in Tangra, making a "shared atmosphere" of criminal intent logically improbable.
- iii. The prosecution is attempting to substitute "intent" with "relationship."

Unlike the principal accused, whose intent is inferred from direct conduct, the intent of distantly residing relatives cannot be presumed. The ratio in *Ganesh Das* demands "participation in action," whereas the record here shows only "matrimonial affinity."

6.4.5. In view of the total absence of evidence regarding a pre-arranged plan, this Court arrives at the following definite findings:

- i. the foundational requirement of a "prior meeting of minds" remains entirely unfulfilled,
- ii. the prosecution has failed to demonstrate a single overt act that would bind these distantly residing petitioners to the husband's independent actions,
- iii. the impleadment under Section 34 IPC appears to be a procedural reflex rather than a reasoned legal conclusion, a product of "legal brainstorming" to widen the net of accused persons.

6.4.6. Accordingly, question No. IV is answered in favour of the petitioners, and this Court finds that the principle of vicarious liability under Section 34 IPC cannot be attracted in this vacuum of material.

6.5. ADJUDICATION ON QUESTION NO. V: THE DOCTRINE OF ABUSE OF PROCESS AND THE SIGNIFICANCE OF DELAY

6.5.1. In criminal jurisprudence, the promptness of a First Information Report (FIR) is not a mere procedural formality but a diagnostic tool for assessing the "hallmark of spontaneity." While the courts traditionally allow for some delay in matrimonial disputes due to the sensitive nature of the relationship, such delay must be cogently explained. An

unexplained and substantial gap between the date of separation and the lodging of the complaint often serves as an indicator of "coloured versions" or "fabricated afterthoughts," specifically designed to involve innocent relatives.

6.5.2. The timeline of the present case reveals a conspicuous and unexplained gap that severely undermines the prosecution's narrative:

- i. The complainant left the matrimonial home on 07.04.2023.
- ii. The formal complaint was lodged only on 09.10.2023.
- iii. During this six-month interval, there is no record of any General Diary (GD) entry, no interim complaint to the CAW (Crime Against Women) cell, and no documented grievance specifically naming the petitioners for the alleged "daily" torture or withholding of *Stridhan*.

Logically, if Petitioner Nos. 1 and 2 had indeed engaged in daily harassment or misappropriated *Stridhan*, such grave allegations would have surfaced in the

immediate aftermath of the separation. The six-month silence leads this Court to the inevitable conclusion that this period was utilized for "legal brainstorming" to maximize the pressure on the husband's family by roping in his settled, professional sister-in-law and her husband.

6.5.3. This Court relies on the ratio in *State of Haryana vs. Bhajan Lal* (1992 Supp (1) SCC 335), wherein the Apex Court identified categories warranting the exercise of quashing powers, specifically:

"Where a criminal proceeding is manifestly attended 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."

Further, in *Preeti Gupta & Anr. vs. State of Jharkhand* (2010) 7 SCC 667, the Court observed at Paragraph 34:

"The Courts must ensure that the matrimonial litigation is not utilized as a tool for harassment. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration."

6.5.4. This is further reinforced by the warning in *Kahkashan Kausar @ Sonam vs. State of Bihar* (2022) 6 SCC 599, where the Court observed that the misuse of Section 498A

to settle personal scores with distant relatives is a trend that the judiciary must stem with a heavy hand. It establishes that when allegations are generic and follow a significant delay, they must be quashed to prevent the judicial process from becoming a tool of oppression. In the present case, the delay acts as a multiplier of doubt. To subject Petitioner No. 2 (a PwC professional) and Petitioner No. 1 to the "scarring" experience of a criminal trial based on an afterthought would be a manifest failure of justice.

6.5.5. The State's argument that the delay reflects "marital trauma" and a "hope for reconciliation" might be valid as against the husband, but it fails to justify the delayed implication of the petitioners. If the complainant were truly seeking reconciliation, the act of roping in distantly residing relatives with generic allegations would be counter-productive to that objective. In cases where delay is condoned for reconciliation, there is usually evidence of mediation or family meetings. However, this Court rejects this argument as it lacks any evidentiary support in the Case Diary. Here, the vacuum is absolute. Further, the timing suggests that the petitioners were included as an afterthought to ensure that no member of the husband's family remained untouched by the litigation.

6.5.6. In view of the analysis of the timeline and the nature of the allegations, this Court arrives at the following definite findings:

- i. The six-month delay is not merely a procedural lapse but evidence of a calculated and deliberated narrative.
- ii. The continuation of this proceeding against the petitioners is not in the interest of justice but is a manifest abuse of the process of law.
- iii. The proceedings are maliciously intended to wreak vengeance, satisfying the criteria for quashing as laid down in *Bhajan Lal*.

6.5.7. Consequently, Question No. V is answered in favor of the petitioners, and this Court finds that the proceedings as against them are liable to be quashed to prevent a miscarriage of justice.

6.6. EVALUATION OF PRIMA FACIE CASE AND LEGAL SUSTAINABILITY

6.6.1. In determining whether a *prima facie* case stands against Petitioner Nos. 1 and 2, this Court has looked beyond the veneer of the Charge Sheet to scrutinize the quality of the underlying materials. A *prima facie* case is not established by the mere naming of individuals in an FIR; it requires the existence of the fundamental ingredients that constitute the

alleged offences. Upon a meticulous review of the Case Diary, this Court finds a total vacuum of specific overt acts. The allegation of "instigation" remains a nebulous legal conclusion without any factual substrate, lacking details of the mode, manner, or timing of such incitement. Furthermore, the charge under Section 406 IPC is factually extinguished by the complainant's own admission in Annexure "C", where she identified the father-in-law as the sole custodian of her *Stridhan*. In the absence of "entrustment" and any subsequent recovery of property from the petitioners, the statutory requirements for Criminal Breach of Trust remain entirely unfulfilled.

6.6.2. The sustainability of this prosecution must be tested against the protective guidelines established by the Hon'ble Supreme Court to prevent the "net-widening" phenomenon in matrimonial disputes. This Court finds that the present proceedings fall squarely within the prohibited categories defined in *State of Haryana vs. Bhajan Lal (1992)*, as the allegations, even if taken at face value, do not disclose the commission of a cognizable offence by these petitioners. The narrative against them is a textbook example of "omnibus allegations" condemned in *Kahkashan Kausar @ Sonam vs. State of Bihar (2022)*, where the Apex Court warned against roping in married relatives without specific roles.

Furthermore, the decade-long domestic severance of the petitioners brings this case under the cautionary mandate of *Preeti Gupta vs. State of Jharkhand (2010)*, which requires the Court to scrutinize generic allegations against distantly residing relatives with extreme circumspection.

6.6.3. The logical and legal explanation for this Court's findings rests on the principle that a criminal trial is a serious inroad into personal liberty and must not be allowed to proceed as a matter of routine when the foundation is visibly fragile. The six-month unexplained delay in lodging the FIR, coupled with the petitioners' independent professional identity at PwC and their settled nuclear life in Tangra, renders the prosecution's theory of "daily interference" inherently improbable. There is no substantive material to bridge the gap between the petitioners' separate residence and the alleged acts of cruelty. Consequently, this Court finds that the impleadment of Petitioner Nos. 1 and 2 is a product of "strategic inflation" rather than factual truth.

6.6.4. Based on the aforementioned evaluation, this Court derives that this revision is liable to be allowed. To compel these petitioners to stand trial in the absence of a *scintilla* of *prima facie* material would be to permit the judicial process to be utilized as a tool of harassment and vengeance. The interest of justice demands that the proceedings against Petitioner

Nos. 1 and 2 be quashed at the threshold to prevent a manifest miscarriage of justice and to uphold the integrity of the criminal justice system.

7. CONCLUSION AND RATIO DECIDENDI

- 7.1. The core principle that emerges from this discussion is that in matrimonial disputes, "geographical proximity" within a metropolitan city cannot be equated with "domestic integration." When relatives have maintained a separate, independent household for a significant period (in this case, ten years), the burden on the prosecution to provide specific, documented overt acts becomes absolute. Generic allegations of "instigation" or "interference" without temporal precision are insufficient to sustain a criminal trial against such distantly residing relatives.
- 7.2. The charge under Section 406 IPC cannot be sustained through "omnibus" claims when the complainant has made a specific prior admission naming a particular individual as the sole custodian of her property. Such an admission creates a factual estoppel that protects other relatives from vicarious liability regarding the *Stridhan*, especially where no recovery is made from their independent premises.
- 7.3. A substantial, unexplained delay in lodging an FIR (six months in the present case) serves as a diagnostic indicator of "legal

brainstorming." Such a delay, when coupled with generic allegations against distantly residing relatives, leads to the inevitable conclusion that the proceedings are an attempt to "widen the net" and constitute an abuse of the process of law.

8. CONSEQUENTIAL ORDER AND DIRECTIONS

8.1. In light of the findings recorded under the discussions on Questions I through VI, this Court is of the firm opinion that the continuation of the criminal proceedings against Petitioner Nos. 1 and 2 would be a hollow exercise in judicial futility and a manifest violation of the ends of justice.

8.2. Accordingly, the Revisional Application is allowed and the following consequential order and directions are hereby issued:

I. The proceedings in G.R. Case No. 2655 of 2023, arising out of Beniapukur Police Station Case No. 275 of 2023 dated 08.11.2023, currently pending before the Learned Judicial Magistrate, 2nd Court, Sealdah, and the resultant Charge Sheet No. 09 of 2024, are hereby quashed and set aside, only in so far as they relate to the petitioners, Moniza Farooquee and Sharik Hossain.

II. The petitioners are hereby discharged from their respective bail bonds, and any restrictions imposed

upon them by virtue of the said proceedings stand vacated.

- III. The trial shall proceed in accordance with the law as against the remaining accused persons(the husband and the parents-in-law), with utmost expedition without being influenced by any observations made herein.
- IV. It is clarified that the observations made in this judgment pertain exclusively to the lack of *prima facie* material against Petitioner Nos. 1 and 2 and shall not influence the trial or the assessment of evidence as against the remaining accused persons.
- V. There shall be no order as to costs.
- VI. All connected applications are disposed of.
- VII. A copy of this judgment shall be transmitted to the Learned Judicial Magistrate, 2nd Court, Sealdah, South 24-Parganas immediately for necessary compliance and for inclusion in the record of G.R. Case No. 2655 of 2023.
- VIII. The Trial Court Record (TCR), if any, shall be sent down to the Trial Court, at once.
- IX. Case diary, if any, be returned forthwith.

- 8.3. Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Uday Kumar, J.)