

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

Present:-

HON'BLE JUSTICE CHAITALI CHATTERJEE DAS.

CRR 476 OF 2023

ASISH BERA & ORS.

VS

THE STATE OF WEST BENGAL & ANR.

For the Petitioners : Mr. Swapan Kumar Mallick, Adv.

Ms. Sudeshna Das, Adv.

For the State : Mr. Debasish Roy, Ld. P.P.

Mr. Imran Ali, Adv.

Ms. Debjani Sahu, Adv.

For respondent

no. 2 : Mr. Sibaji Kr. Das, Adv.

Mr. Dipendu Sarkar, Adv.

Ms. Deblina De, Adv.

Last heard on : 01.12.2025

Judgement on : 30.01.2026

Uploaded on : 30.01.2026

CHAITALI CHATTERJEE DAS, J. :-

1. This is an application for quashing of G.R case no. 1366 of 2022 arising out of Dhantala Police Station Case no. 229 of 2022, dated April 17, 2022, under

Section 498A/323 /307/313/406/34 of the Indian Penal Code read with Section 3/4 of the Dowry Provision Act, 1961, along with the charge sheet no. 4/2022, presely pending before the Court of Learned Additional Chief Judicial Magistrate at Ranaghat.

Fact of the case

2. On 20 March 2022, the Opposite Party no. 2 made a complaint before the Sagar Police Station, 24 Parganas South alleging that after being engaged in a relationship with the petitioner no. 1 for about 12 years, the Opposite Party no. 2, and the petitioner no. 1 got married in accordance with the Hindu rites in a temple. After two months from such wedding, all the petitioners perpetrated terrible mental and physical torture on Opposite Party no. 2 on various pretexts. The Opposite Party no. 2 o 5 cast slurs on the character of the Opposite Party no. 2 and petitioner no. 4 who hauled hair of de-facto complainant and began to bang her head against the wall of the house, in an attempt to kill her. They also tried to pour kerosene on her body and to burn her to death. Somehow, she rescued herself and ran out of her matrimonial house and could save her life. She was treated as Sagar Rural Hospital. The petitioner no. 1 lives in Chhattisgarh for his work and he gives full support to the petitioners in their illegal activities. Her jewellerys were kept by petitioner no. 4, and also she was being threatened to be murdered if she tried to return home. It was further alleged that during her stay with her husband at Chhattisgarh, she was physically assaulted in an inhuman manner and was kept under lock and key in a rented accommodation and threatened to be thrown out. Finally, he refused to accept her as his wife. On the basis of which the complaint was lodged and was submitted on April 25, 2022.

3. A further complaint was lodged under Section 156(3) of the Cr.P.C before the Court of learned Additional Chief Judicial Magistrate Ranaghat, Nadia by the Opposite Party no. 2 with similar allegations excepting that the Opposite Party no. 2 went to her in-laws house on November 12, 2022, and they refused to accept her as their daughter-in-law and was not allowed to enter into the matrimonial house. The complainant had no contact with the present petitioner no. 1 for long time and hence he went to enquire about him in Chhatishgarh and found him a guest lecturer in a government College and from there ultimately she was brought to the rented accommodation of petitioner No.1, where she was confined in a room and was subjected to inhuman torture. After she contacted the local police who took the complainant for treatment at Raja Dev Saran Government Hospital. The fact further revealed that petitioner no. 1 went to the Police Station, apologised and took complainant back with him to his house. On February 21, 2022, when the father of the complaint went to bring her back for her sister's wedding, the petitioner no. 1 misbehaved with the complainant's father and threw them out and only then she informed the Superintendent of police on February 22, 2022 and left the place. On March 18, 2022, when she again returned to her matrimonial home with the hope of a domestic life, all the accused got hold of her hair, banged her head, and then tried to pour kerosene oil, and made attempt to burn her alive. Then the complaint was filed under Section 156 (3) of CPC and on completion of investigation the charge-sheet has been filed.

Submissions

4. It is the case of the present petitioner that since an FIR already registered before Sagar Police Station prior to filing of this complaint on the self-same

cause of action and date of occurrence a second complaint is not maintainable in the eye of law. The allegations made by the opposite party No.2 in her complaint either before Sagar Police Station or before the learned ACJM Kakdwip are not at all specific and an element of afterthought with a mala fide intention and ulterior motive just to harass the petitioners out of grudge and vengeance since the petitioner no. 1/husband never responded to her desire of staying separately. The petitioners' no. 2 and 3 are parents in law, petitioner no.4 and 5 sisters in law and brother in law respectively. The allegations are omnibus in nature, does not reveal any specific act of offence done to her by any of the accused persons. Hence, prayed for quashing.

5. The Advocate representing the Opposite Party no. 2 raises objection and submits that the filing of two complaints disclose the consistent torture upon the Opposite Party no. 2 by the present petitioners. That apart the charge-sheet has been submitted and on completion of investigation and there are materials against the petitioners for which they must face the trial. Quashing of proceeding at stage might prejudice the interest of the Opposite Party no. 2.
6. The learned prosecution on the other hand submits that admittedly, there are two complaints being Dantthala P.S. case no. 229 of 2022, dated April 17 2022, under Section 498A/323/307/313/406/34 IPC read with 3/4 of DP Act and Sagar P.S. case no. 77 of 2022 dated March 20 2022, under Section 498A/325/506/34 IPC Both the cases are lodged against the present petitioners being the husband and in-laws and the charge-sheet has been submitted on completion of investigation and therefore it would be proper to direct the both the cases to be heard by the same Court. However, submits

that quashing of proceeding should not be allowed at this stage as it would cause serious prejudice to the parties.

Analysis

7. Heard the submission of the learned Advocates. On careful perusal of the materials on record, it can be found that the Opposite Party no. 2 lodged the complaint before Sagar Police Station on May 20, 2022, with regard to an incident dated March 18, 2022 against the husband along with other in-laws. The subsequent complaint was filed before the Court of Learned ACJM at Ranaghat under Section 156(3) Cr.P.C against the petitioners herein are also in respect of the incident dated March 18, 2022. The date of affirming, the affidavit is April 12, 2022. The written complaint, is found silent about lodging of complaint before the Sagar Police Station .It was only mentioned that she wrote a letter to SP, Jajpur District on February 20 22 and left the place. From the materials of record the factum of a love affair between the de-facto complainant and the present petitioner No 1 for a period of 12 years is undisputed which culminated into marriage on February 15, 2021, but the dispute cropped up immediately after such marriage. The complaint was lodged under Section 156 (3) of the Criminal Procedure is absolutely silent about any specific date or time of the torture .No iota of material can be found regarding the incident of pouring kerosene oil on her and or banging her head with the wall from the case diary .No previous complaint was also lodged despite such brutal incident. The statement made by the complainant before the learned Magistrate under Section 164 Cr. P.C reveals a different version of the forceful abortion in the year 2016, prior to the marriage while the parties were involved in romantic relationship and she became pregnant.

8. The de-facto complainant is a major lady, had a long relationship with the petitioner and ultimately entered into the marriage tie held in a temple. Nothing transpires from the case record that subsequently the marriage was registered or any social marriage took place or not. In courts of investigation, also the I.O didn't aver a single word about the previous complaint lodged by the complainant against the petitioners in respect of self-incident. The incident alleged dated March 18, 2022 when the de-facto complainant herself went to the house of the petitioner no. 1 for the purpose of leading matrimonial life but she was again tortured and assaulted and also attempted to pour kerosene oil. The previous complaint also alleges the same fact against the present petitioners. No satisfactory explanation can be found as to why the de-facto - complainant had to lodge two different complaint before different places in respect of self-same incident within a gap of 2 months.
9. The instant criminal revision application has been filed for quashing the proceeding of Dhantala PS case no. 229 of 2022 which has been filed by way of an application under Section 156(3) Cr.P.C before the Court of learned ACJM at Ranaghat on April 18, 2021. There is glaring inconsistencies in the statement made before the learned Magistrate by the de-facto complainant regarding forceful abortion in the year 2016 and the version recorded the time of filing charge-sheet, where such forceful abortion has been described during conjugal life which means after 2021 when they got married. In a catena of the decisions the scope and ambit of court's power under Section 482 Cr.P.C has been laid down by the Hon'ble Apex court. It has been held that every High Court in order to do real justice and to prevent injustice for administration of which alone it exists, or to prevent abuse of the process of the Court and to

otherwise secure the ends of justice the inherent power under Section 482 Cr.P.C can be exercised to give effect to an order under the code,. In the decision of ***Preeti Gupta versus State of Jharkhand***¹ the Hon'ble Apex Court took note of a three bench decision in ***Indira Mohan Goswami and another versus state of Uttaranchal and others***² where the Court comprehensively examined the legal position. The court came to definite conclusion and the relevant observations of the Court reproduced in para 14 of the said judgement as under;

'Inherent powers under section 482 Cr.P.C is very wide have to be exercised, sparingly, carefully and with great caution and only when such exercise is justified by the tests specified down in the section itself. Authority of the court exists for the advancement of justice. If any abuse of the process leading to injustice is brought to the notice of the court, then the court would be justified in preventing injustice by invoking inherent power in absence of specific provisions in the statute.'

10. It was held that the

'Ultimate object of justice is to find out the truth and punish the guilty and to protect the innocent. To find out the truth is a Herculean task in majority of the complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At Times, even after the conclusion of trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration.'

¹ 2010) 7 SCC 667

² 2007) 12 SCC

While dealing with matrimonial cases. The allegation of harassment of husband's close relations, who had been living in different cities and never, visited or really visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinising with great care and circumspection. In the case of **Geeta Mehrotra versus state of UP**³ it was observed by Hon'ble Supreme Court taking note of the observation recorded in the matter of **G.V Rao versus L.H.V Prasad and others reported in**⁴ where also in a matrimonial dispute, the Court held that the

'High Court should have quashed the complaint arising out of a matrimonial dispute where in all family members had been roped into the matrimonial litigation. There has been an outburst of matrimonial dispute in recent times. Marriage is a sacred ceremony and main purpose of which is to enable the young couple to settle down in life and leave peacefully. But little matrimonial skirmishes suddenly erupt , which often assume serious proportions, resulting in heinous crimes in which elders of the family are also involved with the result that those who could have cancelled and brought about approachment are rendered helpless on their being arrayed as accused in the criminal case. There are many reasons which did not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their default and terminate the disputes amicably by mutual agreement, instead of fighting it out in a court of law, where it takes years and

³ (2012) 10 SCC 741

⁴ (2000) 3 SCC 693

years to conclude, and in that process, the parties lose their young days in chasing their cases in different courts’.

11. It is also a settled law that in case it is found that the nature of complaint primarily found to be of vexatious and frivolous, the courts owes a duty to look into the other evidences collected and did not have to be confined within the content of the written complaint. That apart, there must be a close scrutiny of the written complaint, and it must be read between the lines in order to find out as to whether sufficient material exist to allow the proceeding to continue as alleged. In the instant case on perusal of the content of the written complaint, firstly it is found that over the self-same incident with the similar allegation against the same set of persons another complaint was lodged over which kakdwip Police Station case no. 77 dated May 20, 2022 started. Secondly, there is no material to attract any of the charges levelled against the present petitioner and the in-laws. The de-facto complainant only mentioned about writing a letter to the SP of Jashpur, Chhattisgarh, when no copy of such letter was annexed with the copy of the application filed under 156 (3) of Cr.P.C violating the mandatory requirement of Section 154(1) and 154(3) of Cr.P.C as both the aspects should be clearly spelt out in the application and necessary documents to that effect ought to have been filed. It is settled that litigant at his own being cannot invoke the authority of the magistrate under this provision.

Conclusion

12. Therefore on the cumulative assessment of the entire facts and circumstances this Court do not find any material or sufficient material to

allow the proceedings to continue further since it would otherwise be absolute abuse of the process of law.

13. Hence, this revisional application stands allowed.

14. The proceeding pending before the learned court of Magistrate be quashed.

Case diary be returned.

15. Urgent certified copy if applied by any of the parties to be supplied subject to observance of all formalities.

(CHAITALI CHATTERJEE DAS, J.)

