

In Re: **Prasenjit Dasgupta**

...Petitioner

Mr. Debnath Ganguly,
Mr. Supriyo Dutta,
Mr. Rajarshi Mitra.

.... For the Petitioner.

Mr. Debabrata Chatterjee,
Mr. Anindya Sunder Chatterjee.

.... For the State.

Mr. Niladri Sekhar Ghosh,
Ms. Sompurna Chatterjee,
Ms. Labani Dey,
Mr. Souvik Dey,
Md. Zeeshan Uddin.

.... For the Opposite Party.

1. This is an application under Section 482 read with Section 397 and Section 401 of the Code of Criminal procedure filed by the petitioner husband for quashing the entire proceeding of Sessions Case No.1 of 2022 arising out of Women P.S Case No.23 of 2019 under Section 498A/307/406/506/342/34 of Indian Penal Code.
2. The case of the petitioner, in a nutshell, is that the marriage between the parties took place in the year 2013. There was no prior complaint against the present petitioner or against any of his family members and suddenly on 13th July, 2019 a complaint was lodged by the opposite party No.2 falsely implicating the present petitioner and his family members. There has been delay in lodging the complaint without any explanation and the petitioner has not received the copy of the alleged GD which is mentioned as annexed with the petition of complaint.
3. It is submitted by the learned Advocate for the petitioner that there is no ingredient to attract any of the offences made out in

the complaint especially to attract Section 307 of the Indian Penal Code. It is strenuously argued that the complaint was lodged in respect of an alleged incident dated 28th June, 2019. No copy of the alleged GD as mentioned in the written complaint lodged by the father to the Khardah P.S whereby the opposite party No.2 was rescued was served upon the present petitioner. The injury report, prima facie, reveals that she had cough and Ascoril was prescribed as medicine for her discomfort which fully negated the case made out about smothering by the petitioner. Therefore, the proceeding is liable to quashed or Section 307 of the Indian Penal Code should quashed against the present petitioner.

4. The learned Advocate representing the opposite party No.2 on the other hand raised objection and argued that sufficient material exists to attract the offence as mentioned in the written complaint. The father had to lodge a GD under a compelling circumstances and she was rescued from her matrimonial house which suggests a potentially volatile condition. The investigating authority has submitted the charge-sheet but the charge has not yet been framed by the court and the petitioner can very well make out his case before the Learned Trial court at the time of framing charge. Accordingly, prayers for dismissal of this revisional application.
5. The prosecution handed over the case diary and submits that the GD entry was very much attached with the written complaint submitted by the Khardah P.S by the opposite party No.2 which prima facie supports the contention of the de-facto complainant. There are further incriminating materials against the petitioner

which prima facie attract the offence as alleged and it should be tested in course of trial .

6. Heard the submissions of the learned Advocate for the parties.
On careful perusal of the materials on the record as well as from the contents of the written complaint other than general allegations of torture mentioned about an incident allegedly took place in the year 2019 with a specific allegation of smothering her with a pillow by the husband/ petitioner .That apart, the other in-laws also tried to set her ablaze by pouring kerosene oil over her however she was saved being rescued by her father with the help of the police.
7. On perusal of the materials of the case diary GD entry number is found attached with the complaint which is a crucial piece of evidence in this case to establish a prima facie case and substantiate the allegations leveled, this Court is of the view that it is not a fit case to quash the proceeding against the present petitioner when the charges has not yet been framed.
8. The power under Section 482 of the High Court to exercise this inherent jurisdiction is wide enough but that should be exercised sparingly in exceptional circumstances .In a recent decision of the Hon'ble Supreme Court in the case of **Pradeep Kumar Kesarwani Vs. State of Uttar Pradesh** CRIMINAL APPEAL NO.3831 OF 2025 (@ SPECIAL LEAVE PETITION (CRL.) NO. 11642/2019, the Hon'ble Supreme Court has set out four steps test frame work to apply by the High Courts for considering the application for quashing under Section 482 Cr.P.C which are the quality of material, sufficiency to rule out acquisitions and

refutations analysis and abuse of process assessment.

9. After giving anxious consideration of the entire facts and circumstances of the instant case, prima facie, sufficient materials are found which would be relied upon by the prosecution in course of trial that there are ingredients which are to be tested during the process of trial.
10. Hence, this Court is not inclined to allow the prayer of the petitioner, accordingly this CRR 634 of 2022 is dismissed.
11. No order as to costs.
12. However, considering the pendency of the matter the learned Trial Court is directed to expedite the process of hearing at an earliest.
13. The department is directed to forward the T.C.R along with this order to the concerned Court for information and taking necessary action.
14. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.
15. Urgent certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Chaitali Chatterjee (Das), J.)