

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

Present:-

HON'BLE JUSTICE CHAITALI CHATTERJEE DAS.

CRR 586 OF 2023
KRISHNAPADA DASH

VS.

STATE OF WEST BENGAL & ANR.

For the Petitioner : **Mr. Anirban Dutta, Adv.**
 Mr. Dyutiman Paul, Adv.

For the State : **Mr. Debasish Roy, Learned Public Prosecutor.**
 Mr. Imran Ali, Adv.
 Ms. Debjani Sahu, Adv.

For the Opposite Party

No. 2 : **Mr. Satyam Mukherjee, Adv.**
 Mr. Purnendu Sekhar Ghosh, Adv.

Last heard on : **26.02.2026**

Judgement on : **08.06.2026**

Uploaded on : **08.06.2026**

CHAITALI CHATTERJEE DAS, J.:-

1. This is an application under Section 482 with Section 397 of the Code of Criminal Procedure filed for quashing of the proceeding being G.R case no.

893 of 2022 arising out of Newtown Police Station case no. 50 of 2022 dated 3rd March 2022, under section 498A of the Indian Penal Code and all other orders, including order dated 22.6.2022, by the learned Chief Judicial Magistrate, Barasat took cognizance of the charge sheet and issued process upon the petitioner.

Brief fact of the case

2. The case of the petitioner in a nut shell is that he was married to the opposite party no.2 in the year 2002, which was an arranged marriage and they led a conjugal life and were blessed with a male child who is aged about more than 12 years. After marriage, both the parties started residing at Belghoria and Salt Lake and after few days, the petitioner purchased a flat at Samabeta cooperative Housing Society flat no. 10 C, Street no. 97, New Town, Kolkata 700156. The petitioner since last few years has been subjected to extreme ill behaviour, physical assault, and mental torture at the behest of the opposite party, no.2 and time and again the petitioner requested her to restrain from such misbehaviour or ill treatment to him in presence of his son, but all went in vein.
3. Having no other alternative, the petitioner left the house around November 2021 and to current accommodation at Balaka Abasan, New Town Kolkata and started residing there for a peaceful life. Since the petitioner was not living with the opposite party no. 2, he was harassed by her over telephone and threatened of false implication in criminal cases in the event the petitioner do not provide sufficient money and demanded an exorbitant amount. The petitioner on various occasion had called to take his basic items from the place of Samabeta cooperative Housing Society, where the opposite

party is residing and she with the help of the neighbours has restrained the petitioner from entering into the property and threatened him to implicate in false case and various criminal cases if he tried to enter into his property. He made a complaint before the cooperative society. It is his further case that the opposite party on.2 made fabricated letter to the principal of the college where the petitioner is attached, asking, about salary certificate of the petitioner. She did the same only with the intention to harass the petitioner and defame him at his workplace. In the aforesaid backdrop, the petitioner was surprised to receive a notice under section 41A of the Code of Criminal Procedure in connection with the above mentioned case around March 2022, and duly complied with the same, met the investigating officer and came to learn that she registered a false complaint against him, alleging of regular harassment and humiliation by the present petitioner. The charge sheet has been submitted by the police on completion of a perfunctory investigation against the present petitioner under Section 498A IPC.

4. Learned Magistrate took cognizance on 22.6.2022, without considering the material and handed over the case diary and fixed the date for appearance of the present petitioner. The learned advocate appearing on behalf of the petitioner would submit that that the wife/petitioner filed the complaint against the husband under Section 498A IPC and as a counter blast to the same and hence is liable to be quashed. It is further submitted that he annexed with the petition the leave and license agreement executed between the petitioner and Shamim Akhtar, on 1st day of March 2022, in respect of the premises where the petitioner is presently residing, the letter addressed to the secretary of the Housing Society on July 17, 2022, intimating the refusal

of his entry into his flat of that society , the letter of opposite party no. 2 to the Principal, Maharaja Srish Chandra College for current payslip/salary slip of the petitioner where it was stated that he left the flat keeping the wife and the minor son alone without providing any amount for their maintenance. The petitioner relied upon his letter addressed to the Officer-in-charge Newtown Police Station, intimating the change in the place of residence.

Submissions

5. It is submitted that the complaint was lodged on 3.3.2022, where specifically averred that on November 20, 2021, he left the Newtown flat, keeping herself and her son alone and started residing at a rental flat within New Town. She alleged the last incident happened on March 1, 2022 around 2:30 PM when he tortured on her in front of their son. On the basis of the same, the case started under Section 498A IPC. It is strenuously argued that the complaint failed to show any malicious intention or injury or any specific allegation which can constitute an offence under section 498A. It is further argued that admittedly the petitioner left the property long back in the year 2021, and he was restrained from entering into the flat even for taking his own belongings and the entire incident mentioned in the complaint are concocted and only to harass the husband. That apart there is no deficiency of societal knowledge since both the parties are well educated and during pendency of this proceeding a suit for Divorce is also filed which is pending for disposal. Accordingly prayed for quashing of the entire proceeding.
6. Per contra the learned advocate representing the opposite party no.2 would submit that the petitioner often entered into the flat and ill-treated the lady in

front of her son and created an atmosphere of fear and also threatened her with dire consequences. He did not provide any maintenance towards the wife or her minor child, which compelled her to write letter to the college for having a specific information about his income. It is also argued that on completion of the investigation, the charge sheet has been submitted, which prima facie proves the allegation levelled against the petitioner .

7. The Learned Advocate further contended that it is settled proposition of law that the power under Section 482 of the Code of Criminal Procedure should be used sparingly and in exceptional case where there is abuse in the process of law. In this case, if the proceeding is quashed at this stage, it would be an abuse of the process of law. Accordingly, prayed for dismissal of this revisional application. The learned prosecution handed over the case diary and argued that prime facie incriminating materials are found against the present petitioner as the charge sheet has been submitted, and hence the petitioner should face the trial

Analysis

8. Heard the submissions. Perused the materials on record which revealed that the marriage between the parties took place about 10 years back and she is a maths teacher at Our Lady Queen of the Mission School, Salt Lake and mother of 10 years aged son .The allegation of torture made in the complaint started since 2018, when they shifted to their home in Newtown, and after that, when they shifted to their new flat. She specifically alleged against the husband of bringing a lot of his family members to their flat for the treatment kid's education and of his relatives on a regular basis which had to be

handled by her. She was once made responsible for the sufferings of a relative from a skin disease .A further incident of abuse to their son in the year 2021 is also found from the complaint and also the threatening given to her to oust them from the flat, when she lodged the complaint under section 498A on March 3, 2022 before the Officer-in-Charge Newtown Police Station.

9. Section 498A of the IPC deals with the torture inflicted upon a woman and where she is subjected to cruelty. Section 498A IPC read as follows;

*“498A. **Husband, or relative of husband of a woman subjecting her to cruelty-** whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be levelled to fine.*

Explanation; for the purpose of the section, cruelty means-

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health(whether mental or physical) of the women; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”

10. In this case, no allegation of demand of dowry was made .The explanation (a) to Section 498A IPC specifically mentioned about a wilful conduct which

should be of such a nature which is likely to drive the woman to commit suicide. This will full conduct may be mental or physical. Harassment need not be in the form of physical assault but manual harassment also would come within the purview of Section 498A IPC as observed by the Hon'ble Supreme Court. On careful perusal of the evidence collected in course of investigation, apparently, it reflects certain statements and materials against the present petitioner which can be tested through the lens of trial in course of taking evidence. It is undisputed that they led conjugal life for a considerable period, blessed with a baby boy and no prior allegation was there. Bringing family members of the husband to his own house or to taking care of their kid's education and treatment of the relatives of the husband or petty quarrels cannot be equated with the explanation made Section 498A IPC regarding cruelty or any wilful conduct, which can drive the woman to commit suicide. It is also pertinent to mention here that admittedly, the petitioner has left the flat in the year 2021 but it is also a fact that he sometimes entered into his flat to take his own belongings. Whether on that relevant day, he came to the flat or the complaint, lodged within two days from such incident is absolutely concocted or not cannot be decided by this court.

- 11.** It is further seen that the petitioner was restrained by the Secretary of the housing Society to his own flat and it was intimated to the secretary by the petitioner in the month of July 2022. Whether the Opposite Party no.2 did not allow the petitioner to enter into the flat or not also cannot be ascertained at this stage unless evidence is adduced. At the same time, even if it is considered that the petitioner entered into the flat on the relevant day and

there was an impasse between them, such standalone incident do not constitute an offence under Section 498A IPC . It is apparent from the record that the grievance of the opposite party mostly relates to not providing maintenance to the wife or the minor child but it goes without saying that for having maintenance from the husband she must approach the appropriate forum. In **Sanjay D. Jain Versus State of Maharashtra**¹ the Hon'ble Supreme Court held that *"vague and general allegations cannot lead to forming of a prima facie case .As regards the ingredients for making out an offence punishable under section 498A of the Penal Code is concerned, the requirement is that there has to be cruelty inflicted against the victim which either drives her to commit suicide or cause grave injury to herself or lead to such conduct that would cause grave injury or danger to life, limb or health."* In this case prima facie materials are found from the case Diary which should be tested in the trial .

12. This court while exercising power under Section 482 Cr.P.C cannot hold a mini trial to ascertain whether the statements recorded by the various witnesses are correct or not. It is time and again reiterated by the Hon'ble Supreme Court that in exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the court or that the ends of justice require that the proceeding ought to be quashed.

¹ 2025 INSC 1168

Conclusion

13. Therefore, this court is not inclined to interfere at this stage to quash the proceeding against the petitioner as it cannot be said that if the proceeding is allowed to be continued before the learned trial court, it would be sheer abuse of the process of law.

14. Hence this criminal revision being CRR 586 of 2023 is hereby dismissed. All other connected application stands disposed of.

15. All connected applications are hereby disposed of.

16. Urgent certified copy of the order if applied for be provided to the parties upon observance of all necessary requirements.

[CHAITALI CHATTERJEE (DAS), J.]