

24.02.2026
Item No.6
Ct. No. 34
nb

CRR 2474 of 2023

In the matter of: **Sahali Halder @ Seheli Halder.**

..... petitioner.

Mr. Arindam Jana,
Mr. Krishnendu De,
Mr. Yuvraj Chatterjee,
Mr. Rahul Surtani,,
Mr. Saikat Guin,

....For the Petitioner

Mr. Debasish Roy,Ld. P.P.,
Mr. Imran Ali,
Ms. Debjani Sahu,

..... for the State

1. This revisional application filed under Section 482 of the Code of Criminal Procedure, 1973 by the petitioner for quashing of the order dated 16.6.2021 taking cognizance along with the charge sheet No.254 dated 7.11.2020 submitted under sections 498A/420/406/34 of the IPC passed by the Learned Magistrate at Alipore, 24 Parganas (South).

2. The brief fact of the case is that a complaint was lodged by the opposite party no.2 under Section 156(3) of the Code of Criminal Procedure directing the Officer-in-Charge of Netaji Nagar Police Station to register a police case after treating the petition of complaint as the FIR and to initiate investigation. Accordingly, the investigation commenced against the FIR named

accused persons: 1. Ramit De, 2. Jayanta Kumar Deb, 3. Sahali Halder/the present petitioner.

3. The complaint was lodged by the opposite party no.2 against the aforesaid two accused persons being the husband and the father-in-law alleging physical and mental cruelty upon her without attributing any role against the present petitioner, who is not family member of either of the opposite party no.2 or the family of the husband. The complaint further alleges allegation of cheating without specifying any role played by the petitioner.

4. It is submitted by the learned counsel appearing on behalf of the petitioner that she was portrayed in the complaint as a girl friend or paramour the husband of the opposite party no 2 and even if the same is accepted it does not constitute any offence under Section 498A or 420 IPC .She was never entrusted with any property and hence, question of breach of trust also does not arise and, therefore, the charge under section 406 of the IPC cannot sustain . That apart, the learned Magistrate without applying judicial mind took cognizance of the matter and directed for investigation on the basis of complaint lodged under Section 156(3) long after the alleged date of occurrence without complying with the mandatory requirement under Sections 154(1) and (3) of the Code of Criminal Procedure. Therefore, the entire proceeding against her should be quashed.

5. The learned Prosecution, on the other hand, raises strong objection and submits that investigation, as culminated in filing of charge sheet and, prima facie, incriminating the materials are available against her for which she should face the trial.

6. Heard the submission and perused the materials on record.

7. On a close scrutiny of the complaint lodged under Section 156(3) by the opposite party no.2, it transpires that the love affair of the opposite party no.2 with Romit Deb culminated into marriage in the year 2014 but subsequently, such relationship turned sour as a result, opposite party no.2 had to face the physical and mental cruelty meted out to her by the husband and mother in law but she did not divulge it to anyone in order to save the marriage. It is further alleged that accused no.1 i.e. Ramit Deb took Rs.10, 00,000/- as loan from the complainant's mother for personal purpose and did not refund the same, till date. The cause of filing the complaint arose when the opposite party came to learn about her husband's involvement of other girl and then she went to Konnagar police station. As of now there was nothing found to show the involvement of the petitioner. Her presence can be found when the opposite party no. 2 went before the Officer-in-Charge of Konnagar P.S. the petitioner was present along with the husband of the complainant and both of them confessed about their relationship. Excepting this argument, the entire complaint is

silent about any other action on the part of the present petitioner in order to constitute an offence under Section 498A or Section 406 of the IPC. That apart, no monetary transaction took place with the petitioner along with opposite party no.1 and she has been depicted as the only, a friend of the husband, which ipso facto cannot be the sole reason for constituting an offence under Section 420 against the present petitioner.

8. On a careful perusal of the charge sheet also, it transpires that only four witnesses were examined, out of which three are close relative of the opposite party no.2 and during investigation no document was seized. According to the said charge sheet, the accused person did not refund the amount that was taken from the mother of the opposite party no.2.

9. On perusal of the order passed by the learned Magistrate, it transpires that the type copy of the order only contains as “having considered the letter of complaint material in the Case Diary cognizance is taken and issue summons against the CS accused”.

10. In terms of the decision of **Anurag Bhatnagar vs State (NCT of Delhi) and anr. reported in 2025 NSC 895** held that the two tier remedy should be exhausted by the complainant under Section 154 CrPC prior to lodging complaint under Section 156(3) Cr.P.C but non-compliance of the same would not vitiate the trial. However it is clearly observed that it is settled “Magistrate while directing for registration of FIR is to apply his

independent mind based on legal principles”, It is a fact that the power conferred under Section 482 of the Code of Criminal Procedure are discretionary in nature and not obligatory upon the Court to exercise the said inherent power in each and every case even if the order impugned suffers minor procedural irregularities provided that there is no miscarriage of justice.

11. In the present case, on going through the facts and circumstances, as discussed above, this Court is of the clear view that if the entire complaint is considered ,on the face of it ,it fails to constitute any offence as alleged under Section 498A/420/406 of the IPC.

12. In the case of ***State of Haryana vs Bhajanlal AIR 1992 Supreme Court 604*** the categories of cases were given where the inherent power could be exercised and in clause (a) it was mentioned that where the allegations made in the First Information report or the complaint, even if they are taken at their face value and accepted in their entirety would not constitute an offence and in such situation the High court should exercise the inherent power under section 482 Cr.P.C .

13. Therefore, on conspectus of the entire facts and circumstances this court is of the view that if the proceeding is allowed to be continued against the present petitioner it should be sheer abuse of the process of Court and therefore, the proceeding is liable to be quashed.

14. Hence, this revisional application stands allowed.

15. The entire proceeding before the Court of Magistrate so far as the present petitioner is concerned, stands quashed.
16. No order as to costs.
17. Case Diary be returned.
18. All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(CHAITALI CHATTERJEE (DAS), J.)