

7 **18.06.2026**
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CRR 3425 of 2017
With
CAN 1 of 2017 (Old CRAN 5204 of 2017)

Swarup Mondal
Vs.
The State of West Bengal & Anr.

1. When the matter is called on for hearing, there is no appearance on behalf of the petitioner.
2. This revisional application under Section 482 of the Cr.P.C. seeking the quashing of criminal proceedings in Kotwali Police Station Case No. 1009 of 2016 has been pending before this Court since 2017.
3. Despite the passage of time and the maturity of the matter for final disposal, the petitioner has remained persistently absent. Consequently, this Court proceeds to dispose of the matter on its merits based on the materials available on record.
4. The petitioner is an accused in a case registered under sections 448 and 497 of the IPC initiated upon a complaint lodged by one Niranjana Bhuyan. The complainant alleged that the petitioner was involved in an adulterous relationship with his wife and had trespassed into his house. The police subsequently filed Charge Sheet No. 16/17 dated 31st January, 2017. The petitioner seeks to quash this proceeding asserting the case is malicious fabrication aimed at harassing him initiated in retaliation to a matrimonial suit for divorce filed by the complainant's wife.
5. I note a transformative development in Indian criminal law that renders the continuation of the primary charge legally impossible. The charge under Section 497 of the IPC was struck down by the

Hon'ble Supreme Court as unconstitutional, as it was declared archaic and violative of the right to equality under Article 14 and the right to dignity and privacy under Article 21 of the Constitution. The Apex Court held that the provision treated a woman as the property of her husband, thereby perpetuating gender discrimination.

6. Consequent to this judgment, any criminal proceeding pending under Section 497 of the IPC is *non est* in the eyes of the law. While the charge of house trespass under Section 448 remains a distinct offence, the factual narrative of the complaint is intrinsically woven around the allegation of adultery. Given that the bedrock of the prosecution's case is no longer a criminal offence, it would be an abuse of the process of law to permit the petitioner to face a trial where the core allegation has been stripped of its criminality by the Apex Court.
7. Regarding the remaining charge under Section 448, the petitioner contends that the entire narrative is a concocted story designed to harass him due to ongoing matrimonial litigation. It is a well-established principle that when a criminal proceeding is instituted with *mala fide* intent, or when the core of the complaint is based on a legally unsustainable charge, the Court must exercise its inherent powers under Section 482 of the Cr.P.C. to prevent a miscarriage of justice.
8. The Trial Court is, therefore, directed to evaluate whether the charge of house trespass can stand on its own merits, independent of the defunct adultery allegation.

9. In view of the aforesaid discussion, the proceedings against the petitioner in connection with Kotwali Police Station Case No. 1009 of 2016, insofar as they relate to the charge under Section 497 of the IPC, are hereby quashed.
10. The learned Chief Judicial Magistrate, Paschim Medinipore is directed to examine the remaining material on record regarding the charge under section 448 of the IPC.
11. The Learned Chief Judicial Magistrate, Paschim Medinipore, is directed to examine the remaining material on record regarding the charge under Section 448 of the IPC.
12. The instant revisional application, C.R.R. No. 3425 of 2017, and the connected application, CRAN 1 of 2017, are disposed of accordingly.
13. Interim orders, if subsisting, stand vacated.
14. A photostat copy of this order, if applied for, be given to the parties upon compliance with all requisite formalities.

(Uday Kumar, J.)