

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

Present:-

HON'BLE JUSTICE CHAITALI CHATTERJEE DAS.

CRR 4012 OF 2023
RITU VERMA & ANR.

VS

NANDINI SONI & ANR.

For the Petitioners : **Mr. Souvik Mitter, Adv.**
Mr. Achin Jana, Adv.
Ms. Gargi Dhang, Adv.
Mr. Suman Chakraborty, Adv.
Mr. Prosenjit Ghosh, Adv.
Ms. Chetna Rustagi, Adv.

For the Opposite
Party no. 1 : **Mr. Soumyajit Das Mahapatra, Adv.**
Mr. Soumya Basu Roy Chowdhuri, Adv.
Ms. Madhurai Sinha, Adv.

For the State : **Mr. Debasish Roy, Learned P.P.,**
Mrs. Rituparna De Ghose, Adv.
Ms. Puja Goswami, Adv.
Ms. Sreemoyi Roy, Adv.

Last heard on : **16.12.2025**

Judgement on : **19.02.2026**

Uploaded on : **19.02.2026**

CHAITALI CHATTERJEE DAS, J. :-

1. This criminal revisional application has been filed under section 397/401 read with section 482 of the Code of Criminal Procedure, 1973 and order dated August one, 2023 passed by the learned Additional Session Judge, 3rd Court at Howrah rejected the prayer for discharge in connection with ST case No. 259 of 2019 under Sections 498/406 subsequently added charges under Section 325/308/34 of the Indian Penal Code.

Factual Matrix of the case

2. The petitioner no. 1 is the married sister-in-law of the Opposite Party and is presently residing at Jaipur, Rajasthan and at the time of alleged incident she was residing far away from the matrimonial home of the de facto complainant at Bungur Lake town. The petitioner No. 2 is a distant relative of the husband of the de facto complainant and a senior citizen being aged about 66 years residing at Mukta Ram Babu Street, Kolkata, far away from the matrimonial house of the de facto complainant. The marriage between the brother of the petitioner no.1 with the Opposite Party was solemnised on December 2, 2015 according to Hindu Rights and Customs and after that they started residing at the residence of petitioner no. 1 and Post, Kolkata. The marital discord between the parties developed days after such marriage and finally on March 18, 2016 she left the matrimonial home without intimating her husband and in-laws. Despite several attempts she refused to return to her matrimonial home to lead conjugal life further. It is the petitioner's case that the husband of the de facto complainant intimated in writing to the Posta Police Station,

Kolkata stating that his wife had left the matrimonial home on March 18, 2016 with all her belongings, gold ornaments and other valuables accompanied by her brother. The husband of the de facto complainant Bharat Soni also immediate family members tried their level best to amicably settled the matrimonial discord between the parties but the Opposite Party and her family members vehemently opposed such reconciliation. After exhausting all amicable remedies, Bharat Soni the husband of the Opposite Party no.1 initiated a diverse proceeding on March 23, 2017 which is presently pending before the learned Family Court at Kolkata as matrimonial suit No. 52 of 2017. On July 15, 2017 the Opposite Party on receiving the summons of the divorce proceeding as a counter blast lodged one written complaint before Gola Bari police Station against husband, parents-in-law along with the present petitioners and one Manik Chand Kulthia since deceased with false and concocted stories. It was alleged that at the time of marriage cash of ₹ 10, 23, 300 were given with new articles and soon after the marriage her husband disclosed about his with lady from Bhawanipur . It was also alleged that the parents-in-law and all the petitioners demanded for a separate large from the de facto complainant and as she could not meet such demand she was abused and assaulted. When the parents of the de facto complainant came to mitigate the matter they were also abused and driven away. She further alleged that she was denied proper nutrition and medication which took a toll on her health and she became sick and certain drugs were administered on June 29, 2015 by her mother-in-law and sister-in-law which caused severe convulsions, vomiting and bleeding. She was taken to Dr. Kothari by her parents and it was informed that wrong medicine was administered and she remained under

treatment for two months at her paternal home. After that she was again taken by her husband and she became pregnant but husband and in-laws wanted her to undergo abortion and being refused she was assaulted and provided no food. It was further alleged that in the first week of March, 2016 her in-laws drove her out of the matrimonial home. After that on March, 2016 the husband and other in-laws visited her home and they joined assaulted her and her abdomen to kill the baby and then she was treated by a doctor. On October 24, 2016 she gave birth to a male child and since then she is residing at paternal home.

3. On the basis of this complaint the Gola Bari P.S case started commenced the investigation. Upon completion of investigation the I.O submitted the charge-sheet under Section 498A/406/325/308 /34 of the Indian Penal Code. The Learned Magistrate took cognizance and accordingly process was issued. Thereafter the case was committed to the Learned Court of District and Session Judge at Howrah wherefrom transferred to the 3rd Court of Additional District and Session Judge, Howrah for trial. Before the said Learned Court the petitioners filed an application under Section 227 of the code of criminal procedure for discharge. Similarly the petition for discharge was filed by other accused persons on the ground stated therein. Both the petitions were taken up for hearing and by a composite order rejected the prayer of all the applicants including the present petitioners. Being aggrieved thereby this revisional application is filed by the petitioners.

Submission

4. The Learned Advocate appearing on behalf of the petitioner argued that the learned court miserably failed to consider that the instant criminal proceeding

is nothing but a vengeance against the present petitioners by the de-facto complainant. The complaint was lodged long after 1 year 4 months from the date of the alleged incident and only after receiving the summon of the suit filed by the husband of the de-facto complainant. The order passed by the Learned Magistrate is devoid of any reasoning for refusal of the prayer of the petitioners who are the married sister in law and a distant relative of the de-facto complainant. The learned Court did not consider that most of the allegations were omnibus in nature without mentioning any specific role attributed by the petitioners. It is further argued that the certificate issued by the doctor after 1 year 4 months clearly manifest the same has been manufactured in order to strengthen the false complaint lodged by the de-facto complainant. The medical paper is silent about any history of forceful administering of medicine by the petitioners to the de-facto complainant or she suffered because of such. Accordingly prayed for setting aside the said order.

5. The learned Advocate appearing on behalf of the opposite party on the other hand tried to impress upon the Court the prolong torture meted out to her by her family members since after the marriage for which she had to suffer mentally and physically. She was driven out from her matrimonial house and her medical treatment has been substantiated by the certificate issued by the treating doctor. It is further argued that prima facie sufficient materials are there which has been established in course of investigation and therefore the learned Trial Court rightly refused the prayer for discharge. The accused persons must face the trial.

6. The Learned Prosecution further argued that in course of investigation, from the statement recorded by the I.O. of the various persons, specific allegations

against the petitioners are very much apparent for which they must face the trial. There are injury report and the doctor's certificate, the authenticity of such documents cannot be ascertained by this court while exercising power under Section 482 Cr.P.C . The Learned Advocate relied upon the case of ***Mohd Allauddin Khan vs State of Bihar and ors.***¹ where it was held that the High court had no jurisdiction to appreciate the evidence and prayed for dismissal of this revisional application.

Analysis

7. Heard the submissions. Before delving deep into the bottom of the matter, the extent of the use of inherent power under section 482CrPC for considering the discharge of F.I.R named accused s be revisited I the touchstone of various judicial pronouncement. There are plethora of decisions of the Hon'ble Supreme Court touching the issue on scope and ambit of the court's power under Section 482 Cr.P.C. It is no longer res integra that every High Court can exercise the inherent power to act ex debito Justitia that is to do real and substantial justice ,for the administration of which alone it exists or to prevent the abuse of the process of court or to otherwise secure the ends of justice . It is also settled that the power under Section 482 Cr.P.C are very wide and the very plenitude of the power requires great caution in its exercise.

8. The case emerges out of the written complaint lodged by the Opposite Party no. 2 before the Inspector of Golabari P.S on July 15, 2017 against the petitioners being the sister-in-law and a distant relative along with the husband and parents in laws alleging inter alia of inflicting torture on her both mentally and physically since after the marriage which took place on February 4, 2015. The

¹ (2019) 6 SCC 107

complainant did not dispute that the present petitioner no.1, the sister in law resides at Bangur ,lake town and the marital house is at Burtolla Street, P.S. Posta. The Complainant specifically averred about an incident of administration of certain drugs to her by her sister in law and mother in law on June 29, 2015 in presence of her husband after which she suffered convulsions, vomiting and bleeding and on July 6, 2015 her parents took her to Dr. Kothari who averred that her conditions was deteriorated on account of wrong treatment and admission of wrong medicine. The written complaint discloses that her in laws consisted of her husband ,parents in law brother in law and his wife and her sister in law ,the present petitioner no 1 ,her grand father in law and her uncle in law ,petitioner no. 2. The complainant did not aver the name of the sister in law when both the wife of her brother-in-law and the sister of her husband is described as the sister in law. That apart it is admitted that she resided at Bangur not at Posta .The Doctor's certificate dated July 6,2015 of Dr. Kothari as found from the case Diary is found silent about the opinion or diagnosis of the doctor as averred in the complaint. Another certificate dated March 18, 2016 shows the treatment of the patient with a history of vomiting, bleeding convulsion and pain in abdomen and advised her to be admitted when she was pregnant and the foetus was 16wks size. The certificate issued by said Doctor Kothari is dated July 28, 2017 where the said doctor narrated the facts stated to him by the victim on July 6, 2015. In the above factual back drop the learned Court while refusing the prayer of the petitioner to discharge was of the view that law does not grant any special privilege to a person who does not permanently reside in the matrimonial home of an allegedly tortured wife, in a case of involving bridal torture.

In the above facts and circumstances the decision relied upon by the learned advocate of the petitioner in **Geeta Mehrotra and Anr vs State of West Bengal**² needs to be look into. In the said case over a matrimonial discord the complaint was lodged by the wife /respondent no 2 against her husband and other in laws including the unmarried sister in law. The application for quashing filed before the High court was mostly on the issue of territorial jurisdiction which was declined and the matter went to the Hon'ble Supreme Court and then it was held that the High court failed to see whether the facts stated in the FIR prima facie constitute any prima facie offence against the sister in law and the brother in law of the complainant . The Hon'ble Supreme court quashed the proceedings on the ground that the there were no allegations against the unmarried sister in law except casual reference to their names. In a very recent decision reported in **Dera Lakshmi Narayana vs Sate of Telengana**³ it was held that mere naming of family members without concrete evidence amounts to abuse of process of law.

9. In the case of **Archin Gupta vs State of Haryana**⁴ it was held that section 498A should not be applied mechanically. It was observed in that case once the investigation is over and chargesheet is filed, the FIR pales into insignificance. The court, thereafter, owes a duty to look into all the materials collected by the investigating agency in the form of chargesheet. There is nothing in the words of Section 482 of the Cr.P.C. which restricts the exercise of the power of the Court to prevent the abuse of process of court or miscarriage of justice only to the stage of the FIR. It would be a travesty of

² (2012)10 SCC 741

³ 2024 SCC Online SC 3682

⁴ (2025) 3 SCC 756

justice to hold that the proceedings initiated against a person can be interfered with at the stage of FIR but not if it has materialized into a charge sheet. From the content of written complaint the complainant narrated about the incident of physical assault on her by her husband ,brother in law ,father in law and uncle in law on March 18,2016 by kicking on her abdomen with intention to kill her when she vomited blood and had bleeding from her private part and this is primarily corroborated by the doctor's prescription but so far the incident alleged on July 6,2015 of administering medicine by the sister-in-law and mother in law no materials can be found in support of that.

10. The definition of cruelty can be found from Section 498A IPC which read as.

Section 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 liable to fine.

Explanation.- For the purposes of this 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 woman; 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."

11. The written complaint is completely silent about any such specific incident against the present petitioner no 1 the married sister-in-law excepting certain omnibus allegation. This complaint is lodged after the matrimonial suit was filed by the husband which is apparent .No prior complaint against the petitioners before any authority prior to lodging of complaint .It was further observed in the said judgement by the Hon'ble Apex Court that there may be cases of genuine ill-treatment and harassment by the husband and his family members towards the wife. The degree of such ill-treatment or harassment may vary. However, the Police machinery should be resorted to as a measure of last resort and that too in a very genuine case of cruelty and harassment. The Police machinery cannot be utilised for the purpose of holding the husband at ransom so that he could be squeezed by the wife at the instigation of her parents or relatives or friends. All cases, where wife complains of harassment or ill-treatment, Section 498A of the IPC cannot be applied mechanically. No FIR is complete without Sections 506 (2) and 323 of the IPC. Every matrimonial conduct, which may cause annoyance to the other, may not amount to cruelty. Mere trivial irritations, quarrels between spouses, which happen in day-to-day married life, may also not amount to cruelty.

12. In the instant case the I.O. subsequently added Section 308 /325 against all the accused person and from the charge sheet it is apparent that considering the written opinion of the doctor of history of vomiting ,watering stool .Severe bleeding from her private parts ,assaulted by her husband on whole body as well as abdomen and due to profuse bleeding she admitted at the Nursing Home while she was pregnant the I.O. submitted the prayer to add

Section 308 IPC against all the accused person without ascertaining the role attributed if prima facie found from there or not . So far the charge under section 406 is concerned in course of investigation the articles and jewelleryes were recovered and handed over to the complainant as submitted by the learned Advocate. So in summation of supra it can be gathered that in the incident of June 29,2015 she was alleged to be administered wrong medicine for which she suffered convulsions ,vomiting and bleeding and visited the doctor on July 6,2015 that is after almost a week ,who opined about wrong treatment but nothing to that extent can be found in the prescription dated July 6,2015 but very elaborately described in the certificate in the form of “ To whom it may concern” issued by the same doctor almost after I year about two incidents dated 6.7.2015 and 18.3.2016 and in both occasion the history of physical assault was made against the husband .It is also pertinent the de-facto complainant was pregnant at that time and delivered the child on October 10 ,2024 .

‘14.In the case of B.N Joshi vs State of Haryana (2003)4 SCC 675 it was held that there is no doubt that the object of introducing Chapter XX-A containing Section 498A in the penal code was to prevent torture to a woman by her husband or by relatives of her husband .Section 498A was added with a view to punish the husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry”

13. It was observed in the case of ***Dara lakshmi Narayana & others ... appellants versus State of Telangana & Another (supra)***

“We are not, for a moment, stating that any woman who has suffered cruelty in terms of what has been contemplated under Section 498A of the IPC should remain silent and forbear herself from making a complaint or initiating any criminal proceeding. That is not the intention of our aforesaid observations but we should not encourage a case like as in the present one, where as a counter blast to the petition for dissolution of marriage sought by the first appellant-husband of the second respondent herein, a complaint under Section 498A of the IPC is lodged by the latter. In fact, the insertion of the said provision is meant mainly for the protection of a woman who is subjected to cruelty in them matrimonial home primarily due to an unlawful demand for any property or valuable security in the form of dowry. However, sometimes it is misused as in the present case.’

Conclusion

14. Therefore on perusal of the complaint and other materials on record and on analysis of the argument advanced by the Learned Advocates on the touchstone of the law laid down in this regard as found from catena of decisions and considering the order of refusal by the learned Trial court which is devoid of any reasoning to refuse the prayer of the petitioner no 1, it is apparent that it is a fit case where the petitioner no 1 should be discharged and the proceeding should be quashed against her . So far the petitioner no. 2 a specific allegation of assault on March 18, 2016 has been made and prima facie substantiated with the medical prescription of the same date hence this court is not inclined to allow his prayer and is of the view that he should face the trial.

- 15.** Hence it is ordered that the criminal revisional application stands allowed so far the petitioner no 1, the married sister-in-law is concerned and the order refusing to discharge her is hereby set aside and the entire proceeding against her stand quashed.
- 16.** No order as to cost.
- 17.** In view of the above all other connected application is hereby disposed of.
- 18.** Urgent Photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

[CHAITALI CHATTERJEE (DAS), J.]

