

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

Present:-

HON'BLE JUSTICE CHAITALI CHATTERJEE DAS.

CRR 4013 OF 2023
BHARAT SONI & ORS.

VS

NANDINI SONI & ANR.

For the Petitioner : **Mr. Achin Jana, Adv.**
Ms. Gargi Dhang, Adv.
Mr. Prosenjit Ghosh, Adv.
Ms. Chetna Rustagi, Adv.

For the Opposite
Party no. 2 : **Mr. Soumyajit Das Mahapatra, Adv.**
Mr. Soumya Basu Roy Chowdhuri, Adv.
Ms. Madhurai Sinha, Adv.

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

Last heard on : **24.12.2025**

Judgement on : **24.02.2026**

Uploaded on : **24.02.2026**

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 308 IPC subsequently added .

Factual Matrix of the case

2. The petitioner no. 1 is the husband 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 & 3 are the aged parents –in- law and petitioner no.4&5 are the brother in law and sister in law of the de facto complainant .The marriage between the petitioner no.1 with the Opposite Party no. 1 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 at her matrimonial home. 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 petitioner no 1. 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 and the immediate family members tried their level best to amicably settle the matrimonial discord between the parties but the Opposite Party no1 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 divorce 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 to the same lodged a written complaint before Gola Bari police Station against all the in laws ,distant relatives alongwith the husband the petitioners 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 jewelleries and valuable articles but soon after the marriage her husband disclosed about his affair with a lady from Bhawanipur . It was also alleged that the parents-in-law and all the petitioners demanded for a separate flat 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 treated by Dr. Kothari taken her by her parents and it was informed that wrong medicine was administered. She was under treatment for two months at her paternal home. After that she was again taken by her husband and became pregnant but the husband and in-laws wanted her to undergo abortion and being refused she was assaulted and provided with 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 jointly assaulted her at 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 and on 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 from the charge under Section 308 of the IPC. Similarly the petition for discharge from the charges was filed by other the married sister in law and a distant relative 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 special against the aged parents in law in absence of any iota of materials against them .The learned Court did not consider that most of the allegations were omnibus in nature without mentioning any specific role attributed by the petitioners 2 to 5. 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 history of forceful administering medicine by the petitioners to the de-facto complainant or she suffered because of such and all witnesses in the charge sheet are interested witnesses and no ingredients can be found to attract Section 308 of the Indian Penal Code .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 subsequently the said charge under section 308 was incorporated at the time of filing charge sheet .Therefore the learned Trial Court rightly refused the prayer for discharge .The accused persons must face the trial. The learned advocate

relied upon the decision of ***Muskan vs Ishan Khan reported in***¹ and ***Koppiseti Subbhar AO alias Subramaniam vs State of Andhrapradesh reported in***² .

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.***³ 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 482 Cr.P.C for considering the discharge of F.I.R named accused be revisited 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

¹ 2025 SCC Online SC 2355

² (2009)12 SCC 331

³ (2019) 6 SCC 107

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 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 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 Ritu verma was a resident of Bangur .
- 9.** The investigating authority collected the the Doctor's certificate dated July 6,2015 of Dr. Kothari which is 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 that is approximately after 2 years.
- 10.** In the above factual back drop the learned Court while refusing the prayer of the petitioners to discharge from the charge under Section 308 IPC was of the view that the allegation that the medical papers are manufactured cannot

be decided at the said stage when the case diary demonstrate the health of the child was not good prior to his birth.

11. 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***⁴ 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 State of Telengana***⁵ it was held that mere naming of family members without concrete evidence amounts to abuse of process of law.

12. It is settled law that the court, owes a duty to look into all the materials collected by the investigating agency in the form of charge-sheet where the allegations are primarily vexatious or malicious. 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 justice to hold that the

⁴ (2012)10 SCC 741

⁵ 2024 SCC Online SC 3682

proceedings initiated against a person can be interfered with at the stage of FIR but not if it has materialized into a charge sheet.

13. In the 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 an 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.

14. This complaint is lodged admittedly 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 can be found . The child was born on 24.10.2016 and she alleged of administering wrong medicine way back in the year 2015 by her sister in law and mother in law. In order to substantiate she procured the doctor's certificate on 28.7.2017 from the concerned doctor. The certificate glaringly manifest that she visited him on 18.3.2016 with history of physical assault by her husband resulting bleeding injuries from her private part and on 6.7.17 with history of physical assault on her by her husband causing abdominal injuries. So far administering wrong medicine is concerned nothing can be found from the fore corners of the medical papers as collected during investigation. The prescription filed would prima facie shows that she went to visit the doctor on 6.7.2015 and the prescription is absolutely silent about any symptoms to the extent excepting palpitation.

15. 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 by all other petitioners or not .

16. So in summation of supra it could be gathered that in the incident of June 29,2015 she was alleged to be administered with wrong medicine and she suffered convulsions ,vomiting and bleeding and visited the doctor on July 6,2015 that is after almost a week when 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 on 28.7.2017 that is almost after 2 years covering incidents dated 6.7.2015 and 18.3.2016 and in both occasion the allegation of physical assault was attributed against the husband .It is also pertinent the de-facto complainant was pregnant at that time and delivered the child on October 10 ,2024 .

17. In the decision of ***Sanjay Kumar Rai vs State of Uttar Pradesh and Anr.***⁶

It was held that the correct position of law as laid down in ***Madhu Limaye (supra)*** thus is that the orders framing charges are not affected by the bar of Section 397(2) of Cr.P.c. It was further observed that the discretion vested in the High court should be invoked carefully and judiciously for effective and

⁶ 2021 SCC Online SC 367

timely administration of criminal approach and failing which there is likelihood of serious prejudice to the rights of citizen. It was further held in the said Judgement that the High court has committed jurisdictional error `by not entertaining the revision petition on merits and overlooking the fact that 'Discharge' is a valuable right provided to the accused.

Conclusion

- 18.** 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 of the Hon'ble Apex Court and considering the order of the learned Trial court which is devoid of any reasoning while refusing the prayer of the petitioner no 1, it is apparent that it is a fit case where the petitioner no. 3 & 5 should be discharged from the charge under Section 308 of the IPC. So far rest of the petitioners 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 their prayer and is of the view that they should face the trial.
- 19.** Hence it is ordered that the criminal revisional application stands allowed so far the petitioner no 1, and petitioner no. 5 the mother-in-law and sister-in-law are concerned and the order refusing to discharge them is hereby set aside.
- 20.** No order as to cost.
- 21.** In view of the above all other connected application is hereby disposed of.

22. 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.]

