

CRR 4411 of 2022

**Md. Obaidullah
Vs.
The State of West Bengal & Anr.**

Ms. Sreyashee Biswas
Ms. Pushpita Saha

... ... for the State

1. The matter is taken up for consideration today. A compliance report filed by the Inspector-in-Charge (I.C.), Kaliachak Police Station, Malda, is placed on record by the learned Advocate for the State. The report confirms that the petitioner, Md. Obaidullah, was duly served with the notice of the hearing through his brother. Despite such service, the petitioner remains unrepresented. Given the history of non-appearance on previous occasions, this Court deems it fit to dispose of the application on merits based on the materials available on record.
2. This revisional application has been preferred under **Section 482 of the Code of Criminal Procedure (Cr.P.C.)** [now corresponding to **Section 528 of the Bharatiya Nagarik Suraksha Sanhita (BNSS)**] seeking the quashing of proceedings in connection with **Kaliachak P.S. Case No. 1109 of 2022** dated 29.09.2022 (G.R. No. 6131 of 2022).

The prosecution was initiated on the basis of a written complaint by Ahida Rahaman (OP No. 2) alleging offenses under **Sections 498A, 376, 323, 417, 308, 406, 448, 506, and 34 of the Indian Penal Code.**

3. The factual matrix of the instant case, as gathered from the materials-on-record and the written complaint filed by Ahida Rahaman (OP No. 2) to the Superintendent of Police, Malda, reveals a harrowing account of matrimonial cruelty and grave criminal offenses. The petitioner, Md. Obaidullah, being the husband of the complainant, is joined in these proceedings by other arrayed accused persons, namely Merina Bibi, Hyder Ali, Fatima Bibi, Samiul Shaikh, Hajiman Bibi, and Haj Mohammed, who are described as the in-laws of the victim.
4. The complainant alleges that since the inception of the marriage, the accused persons acted in concert to inflict persistent physical and mental torture upon her. A specific and grave allegation is leveled regarding an incident dated 30.07.2021, wherein it is stated that a sexual relationship was established with her forcefully and against her will. It is further alleged that when the complainant raised objections against the conduct of Accused Nos. 1 and 2, she was brutally assaulted, causing her to

fall. The brutality described in the complaint includes the allegation that the accused persons used hot articles to inflict burn injuries on various parts of her body in a calculated attempt to endanger her life, attracting the ingredients of Section 308 of the IPC.

5. Furthermore, the prosecution case asserts a clear demand for dowry to the tune of Rs. 5,00,000/- (Rupees Five Lakhs) from the complainant's father. The records indicate that when the torture reached an unbearable threshold, the victim initially approached the Kaliachak Police Station; however, upon the initial failure of the local police to initiate a case, she was compelled to seek the intervention of the Superintendent of Police, Malda. This led to the formal registration of Kaliachak Police Station Case No. 1109 of 2022. These facts, taken together, suggest a pre-planned and continuous course of victimization that necessitates a thorough judicial scrutiny
6. Learned Advocate for the State vehemently opposes the prayer for quashing, pointing toward the strong *prima facie* materials disclosed in the FIR. It is specifically submitted by the State that parallel proceedings under the **Protection of Women from Domestic Violence Act (DV Act)** are currently pending between the parties. The existence of a

Domestic Incident Report (DIR) and the ongoing nature of the DV proceedings serve as a significant indicator that the alleged torture and matrimonial cruelty are not isolated incidents but represent a continuing course of conduct. The State contends that the pendency of these statutory proceedings reinforces the credibility of the complainant's allegations of subsisting abuse, thereby necessitating a full-scale trial to ensure the safety and dignity of the victim.

7. It is a fundamental principle of criminal jurisprudence, as articulated in the landmark ratio of ***State of Haryana v. Bhajan Lal*** and reinforced in ***Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra***, that the power to quash an FIR or a criminal proceeding must be exercised with the utmost circumspection and only in the "rarest of rare cases." This Court, while exercising revisional jurisdiction, is not permitted to embark upon an inquiry into the reliability, genuineness, or inherent probability of the allegations. To weigh the evidence at this premature stage or to assess the truthfulness of the complainant's statement would be tantamount to conducting a "**mini-trial**" before the actual trial has commenced. The law is clear: if the allegations in the FIR, taken at their face value, disclose the commission of a cognizable offense, the

Court has no authority to interfere or stifle the investigation. The requirement of the *Bhajan Singh/Bhajan Lal* standards for quashing has not been met, as the complaint is neither vexatious nor legally untenable on its face.

8. Furthermore, the gravity of the offenses alleged, specifically **Section 376** (Rape) and **Section 308** (Attempt to commit culpable homicide), involves complex questions of fact and intent that can only be resolved through the rigors of a full trial. This Court cannot "throttle the prosecution at the threshold" when the materials on record suggest a prima facie case of extreme physical and sexual violence. The determination of whether the alleged sexual acts were consensual or forceful, or whether the injuries inflicted constitute an attempt to commit culpable homicide, are matters of evidence to be tested via cross-examination in the Trial Court. Exercising revisional jurisdiction to quash such serious charges would result in a miscarriage of justice and would deprive the victim of her right to a fair trial. Consequently, the application does not merit the intervention of this Court.

9. In view of the exhaustive facts and the settled legal position, this Court finds that there are sufficient and compelling grounds for the trial to proceed before the learned Chief Judicial Magistrate, Malda.

The allegations are not merely matrimonial discord but involve grave criminal culpability that cannot be ignored at this stage.

10. Accordingly, the revisional application is **dismissed**. All interim orders, including any stay on the investigation or trial proceedings, stand vacated with immediate effect.

11. A copy of this order be communicated to the learned Chief Judicial Magistrate, Malda, and the Inspector-in-Charge, Kaliachak Police Station, for immediate compliance and for inclusion in the Case Diary.

12. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Uday Kumar, J.)