

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

Present:-

HON'BLE JUSTICE CHAITALI CHATTERJEE DAS.

CRR 4577 OF 2022

SOUMENDRA PRASAD BHATTACHARYA & ORS.

VERSUS

THE STATE OF WEST BENGAL & ANR.

For the Petitioners : Ms. Bhaskar Prasad Banerjee, Adv.
Mr. Aniket Mitra, Adv.
Mr. Sourav Chatterjee, Adv.
Mr. Anupurba Banerjee, dv.

For the Opposite

Party no. 2 : Mr. Jayanta Narayan Chatterjee, Sr. Adv.
Mr. Supreem Naskar, Adv.
Ms. Jayashree Patra, Adv.
Ms. Pritha Sinha, Adv.

For the State : Ms. Amita Gour, Adv.
Mr. K. Bapuli, Adv.

Last heard on : 13.04.2026

Judgement on : 17.06.2026

Uploaded on : 17.06.2026

CHAITALI CHATTERJEE DAS, J.:-

1. This revisional application under Section 482 of the Code of Criminal Procedure has been filed for questioning the entire preceding in connection with ACGR - 2116/22 arising out of Garfa Police Station case no. 109/22, under Sections 498A/406/342/506/34 of the Indian Penal Code, what's pending before Learned ACJM, Alipore, 24 Parganas South.

Fact of the case

2. The genesis of the case emerges from a complaint lodged before the officer in charge of the Police Station by the Opposite Party no. 2 against the present petitioners alleging inter alia that the marriage between the present Opposite Party no. 2 and one Somyoti Bhattacharya held on 4.12.2011 and during her marriage, huge amount of cash and gold ornaments were demanded which were abided by the parents of the present complainant and the marriage was registered on 9.4.2015. Soon after marriage, she went to Mumbai with her husband and started residing there and they were blessed with a female child. During pandemic, the complainant returned to Kolkata with her husband and he got the infection of coronavirus and expired on 18.5.2021. Her daughter was also affected on 20.4.2021 and on 27.4.2021, she was driven out of her matrimonial house along with her daughter. Gold ornaments which were given to her by her father were not handed over to her and when she went to her matrimonial home with her father on 19.7.2021, they were ousted and also informed that the accused person will sell her articles and will not allow the Opposite Party no. 2 to reside there. After that again on 16.5.2022, the accused persons came to their paternal home and misbehaved with them. Petitioner no. 1 to 4 surrendered

before the Court of learned ACJM, prayed for Bail and were released on interim bail.

3. The case of the petitioner is that the petitioner no.3 is the married sister-in-law and petitioner no. 4 is a distant relative of petitioner No.1 . The petitioner no. 3 &4 resides in a separate address which is far from the address of the petitioner no.1. Soon after marriage, the complainant insisted in staying separately with her husband and accordingly they moved to Mumbai, but she never allowed the petitioner no. 1& 2, the parents of the diseased son to talk with their granddaughter over phone. It is the further case of the petitioners that the complainant's husband had fever from 22.4.2021 and on 27.4.2021, and got the report that he is affected with coronavirus and died on 18.5.2021. Even after the sad demise of their only son, the petitioner no.1 & 2 were not allowed to meet their granddaughter. After few days of their son's death, the house petitioner no.2 was visited by the complainant and her father where they demanded to handover the ownership of their only house in the name of complainant. They feared that they might be out from their house at this old age and they did not agree to it and they were threatened to be implicated in the false case by the present opposite party no.2 . Accordingly, this complaint was lodged falsely against the present petitioners who had no way involved in this case and only in order to harass them and to grab the entire property of the present petitioners No.1 & 2 this entire situation has been created and hence come before the court to quash the proceeding.

Submission

4. The learned Advocate appearing on behalf of the petitioner submitted that marriage took place in the year 2011 and registered on 9.4.15, and the child was born in the year 2013. There was no prior complaint during this long period when they laid their conjugal life and the dispute started during the lifetime of the husband as she admitted that she was driven out during his lifetime on 27.4.21. On 6.1.21, she received the gold jewellery in presence of husband, but it was not mentioned in the written complaint that whether she received back her other articles or not. A Title suit was filed by the father-in-law being Title. Suit no. 616 of 2021 and an interim order was passed, restraining the Opposite Party no. 2 from interfering with the peaceful possession. The seizure list also disclosed that other articles were also seized and hence the entire story as made out are all false and concocted. Relied upon ***Dara Lakshmi Narayana and Others versus state of Telangana and Another¹***.

5. The learned Senior Advocate on the other hand, representing the opposite party strongly opposes the contention of the petitioner and submitted that on the basis of the complaint and investigation took place and the charge sheet has been submitted and therefore this court in exercise of Section 482 of Cr.P.C. cannot embark upon an enquiry which is culminated into chargesheet and it should be tested before the trial court. In this regard relied upon the decision of ***Taramani Parakh versus State of MP²*** paragraph 5, 14, 16. The learned advocate further relied upon the decision of ***Bhaskar Lal Sharma & Anr. versus Monica &***

¹ (2025) 3 SCC 735

² (2015) 11 SCC 260

Ors.³ , Kaptan Singh versus State of U.P. & Ors.⁴, Rajesh Sharma and others vs State of Uttar Pradesh & Anr.⁵, Geeta Mehrotra and Another versus state of Uttar Pradesh and Another⁶.

6. On behalf of prosecution, it is submitted that in connection with the writ petition filed by the opposite party no. 2 the bank account of the father-in-law is seized. The materials collected in course of investigation are sufficient to substantiate the allegations and the same should be tested in the trial.

Analysis

7. Heard the submissions. Much emphasis has been given by the learned Senior advocate Mr. Chatterjee regarding the situation that had to be faced by the present opposite party no. 2 who lost her husband due to Covid and due to the suffering of her minor child from COVID-19 and she didn't get any cooperation from her Parents in law and other in-laws who tried to oust their daughter-in-law and the grandchild from their house, despite having such situation and they were successful and drove her out from the matrimonial house along with minor child who had to take shelter to her parent's house. The Learned Senior Advocate tried to impress upon the court that during Covid situation a new type of torture emerged on account of various domestic disputes which ought to be considered more sympathetically as the nature of torture, specially the mental torture cannot be equated with the usual torture mentioned by a victim of domestic violence. In course of investigation the investigating authority collected enough materials and a prima facie case is well established under Section 498/406/ 342/ 506 /34 IPC against the accused persons. From the

³ (2014) 3 SCC 383

⁴ (2021) 9 SCC 35

⁵ (2018) 10 SCC 472

⁶ (2012) 10 SCC 741

materials placed before the court and from the submissions advanced by the learned counsels and the prosecution, it is apparent that the marriage took place long back in the year 2011 and registration of such marriage held in the year 2015, and the birth of the child took place in the year 2013. The parties were residing at Mumbai and the written complaint is silent about any visitation made by the present petitioners no.1 & 2 during their prolong stay in Mumbai. The Writ petition filed by the Opposite Party no .2 and her minor daughter, the prayer made for a direction upon the authorities to supply the written information regarding the Bank account, fixed deposit certificate, and other certificate in the name of deceased husband of the petitioner no 1 and for a direction upon the respondent/present petitioner no. 1 and 2 not to disburse any amount or any deposit certificate lying in the name of deceased husband of the present opposite party no. 2 to the joint account holder or nominee till disposal of the Writ petition. On the basis of such prayer, the account of the petitioner no. 1 and 2 has been frozen. A petition was filed by the opposite party no. 2 and the minor girl under Section 12 of PWDV Act, 2005 and prayed for an order under Section 19(a) of PWD Act, 2005 restraining the respondent from disturbing the possession of the opposite party no. 2 from the shared household, whether or not, the respondent has a legal or equitable interest in the shared household, further to secure same level of alternative accommodation for the person as enjoyed by her in the shared household or to pay ₹10,000 as rent per month, other than maintenance of ₹20,000 to the opposite party no. 2 and ₹30, 000/- to the minor child. They further prayed for compensation of ₹10 lakhs. In such chequered history of strained

relationship and the pending litigation it is to be decided whether it is a fit case to exercise the inherent jurisdiction of this court to quash the entire proceedings.

8. On perusal of the written complaint lodged before the officer in charge, Garfa Police Station, Kolkata by the opposite party no.2 intimating the incident and the torture suffered by the present opposite party no.2 did not disclose the date of return to Kolkata from Mumbai. On 8.11.2020 her husband was affected by Corona and expired on 18.5.2021. She also mentioned that the sudden demise of her husband was a bolt from blue and she became very helpless as no one from the matrimonial home stood beside her at that time. The minor daughter also affected on 20.4.2021, which means during lifetime of the husband, the minor also suffered the unfortunate virus attack. It is alleged that 27.4.2021 that is prior to the death of her husband her daughter was driven out, accompanied by their driver but no whisper can be found about the destination where such minor child was taken by a driver. Admittedly, at that point of time. From the complaint, also, it can be found that she did not specify as to when she was driven out, but the complaint disclose when she came on 19.7.2021, along with her daughter and father to their matrimonial house. She alleged wrongful confinement and defamatory languages was used against her by her in laws. After that on 16.5.2022, all the petitioners went to her paternal house and informed that they will not allow her and her daughter to the matrimonial house.

9. Therefore, it is to be construed from the above factual matrix that the wife never left the matrimonial house or ousted from the matrimonial house during life time of her husband or at least when her daughter was alleged to be sent to an unknown destination with the driver then presently what she did after her daughter was sent alone when she was residing at the time of illness of her

husband till her husband died on 18.5 .2021.It is further found from the record that the present petitioner No.2 , the mother-in-law also lodged one application under Section 12 read with section 23 of the PWD Act before the court of learned Chief Judicial Magistrate at Baruipur being criminal Misc. case no. 27 of 2022 against the opposite party no. 2. The case diary also disclosed that the present petition no. 1, the father-in-law in compliance to the investigation, submitted the documents, which on the face of it manifest that during lifetime of the husband on 6.1.2021, the opposite party no. 2 collected all her jewellery from the custody of the present petitioner no. 1 and 2 and also the other articles on 6. 1. 21 and duly signed over such document. After that again on 19.7.21 she received other articles,Therefore, on the face of it, it is apparent that the marital discord cropped up between the opposite party no.2 with her husband and in-laws during the lifetime of the husband, and it is her own case that her husband suffered COVID-19 and expired in the month of May 2021 that is prior to the death of her husband and when he was suffering from Covid 19 she took back all her articles, but this fact has not been stated in the written complaint.

10. In the decision of ***Taramani Parakh versus State of MP (Supra)*** as relied by the learned Senior Advocate , a complaint was lodged by the wife against the husband and his parents with allegation regarding demand of dowry and the application for quashing was filed on the ground of false complaint filed after filing divorce petition ,which was allowed by the High Court and held that from reading of the complaint, it cannot be held that even if the allegations are taken as proved no cases made out. Matter travelled up to Hon'ble Supreme Court where the principles of exercise of power under Section 482 Cr.P.C was reiterated and held that "*where the factual foundation of an offence has been laid down, the*

courts should be reluctant and should not hasten to quash the proceedings even on the premise that one or two ingredients have not been stated or do not appear to be satisfied if there is substantial compliance with the requirement of the offence.” It was held further that there were allegations against the husband and his parents for harassing the complainant which for her to leave the matrimonial home and she continues to be separated from the matrimonial home as she apprehended lack of security and safety and proper environment in the matrimonial home. The question whether the applicant was in fact, was treated with cruelty is a matter of trial and hence cannot be said that this stage that no cases made out. The order of the High Court was set aside.

11. In the decision of ***Bhaskar Lal Sharma & Anr. versus Monica & Ors. (Supra)*** it was held that cruelty is defined in explanation to section 498A IPC has a twofold meaning-while instances of physical torture would be plainly evident from pleadings, allegations as to conduct, which has caused is likely to cause mental injury would be far more subtle . It was further observed that-

“it is only unnecessary for us to embark upon a discourse as records the scope and ambit of the court’s power to quash a criminal proceeding. The appreciation, even in a summary manner of the averments made in a complaint petition or FIR would not be permissible at the stage of quashing and the fact stated will have to be accepted as they appear on the very face of it”.

In the decision of ***Kaptan Singh versus State of U.P. & Ors (Supra)*** the charge sheet was submitted when the proceeding was quashed by the High Court. The

charges were under Section 147/148/149/406/329 and 386 IPC. The matter was at the stage of FIR in that case, and it was held that-

*“If the petition under section 482 Cr.P.C was at the stage of FIR in that case the allegations in the FIR /complaint only are required to be considered and whether a cognizable offence is disclosed or not is required to be considered. However, thereafter, when the statements are recorded, evidence is collected and the charge sheet is filed after conclusion of the investigation/enquiry, the matter on different footing and the court is required to consider the material/evidence collected during the investigation. Even at that stage also, as observed and held by this Court in catena of decisions, the High Court is not required to go into the merits of the allegations and/or entered into the merits of the case, as if the High Court is exercising, the appellate jurisdiction and or conducting the trial. As held by this Court in **Dineshbhai Chandubhai Patel vs State of Gujarat, (2018) 3 SCC 104** in order to examine as to whether factual contents of FIR disclose any cognizable offence or not, the High Court cannot act like the investigating agency nor can exercise the power like an appellate court.”*

At that stage, the High Court cannot appreciate evidence nor can draw its own inferences from contents of FIR and prima facie materials, requiring no proof.

12. With regard to the allegations arising out of matrimonial discord and implicating the family members of the husband has been discussed in the decision of **Preeti Gupta and Another versus State of Jharkhand and Another**⁷ where the application under section 482 was filed for quashing of a complaint lodged under Section 498 A IPC against the unmarried brother and sister of complainant's husband who were neither residing with complainant in her matrimonial home, not visited her. Hon'ble Supreme Court while expressing concern about the increasing number of lodging of complaint under section 498A even over trivial issues held that "*every High Court has inherent power to act ex debito justitiae to do real and substantial justice for the administration of which alone it exists or to prevent the abuse of process of court*". It was observed that-

"Inherent power under Section 482 Cr.P.C can

be exercised:

i) to give effect to an order under the Code;

ii) to prevent the abuse of process of Court; and

iii) to otherwise secure the ends of justice."

The Supreme Court referred the decision of **State of Haryana & Ors. versus Bhajanlal & Ors.**⁸ where the categories of cases by way of illustration was discussed wherein such power could be exercised either to prevent abuse of process of court or otherwise to secure the ends of justice. The Hon'ble Supreme

⁷ (2010) 7 SCC 667

⁸ 1992 Supp (1) SCC 335

Court also took note of **Zandu pharmaceutical Works Limited. Vs Mohd. Sharaful Haque**⁹ where in paragraph 8, it was observed:

“8..... It would be an abuse of process of court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers, Court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings which otherwise serve the end of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed it is permissible to look into whether any offence is made out, even if the allegations are accepted in toto.”

In the decision of **Achin Gupta versus state of Haryana and Another**¹⁰, it was held that -

“Once the investigation is over and chargesheet is filed, the FIR pales into insignificance. The court, thereafter, owes the duty to look into all the materials collected by the investigating agency in the form of charge sheet. There is nothing in the words of section 482 of the CRPC, which restrict 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 proceedings initiated against a person can be interfered with at the stage of FIR but not if it has materialised into charge sheet.”

⁹ (2005) 1 SCC 122

¹⁰ 2024 INSC 369

13. Therefore, from the above discussion held by the Hon'ble Supreme Court in various judicial announcements, it is evident that the court should exercise the inherent jurisdiction to prevent abuse of process of law. In the light of above discussion, it is also apparent that such power can be exercised, not only at the stage of FIR but also when the investigation culminated into a charge sheet. In the present case, the complaint was lodged before the police station against the parents in law as well as the petitioner No.3 & 4, who are the married sister-in-law and petitioner no. 4, a distant relative of petitioner no. 1. Nowhere in the four corner of the written complaint, any allegation can be found attributed against those petitioner and excepting that the parents in law did not allow them to enter into the matrimonial house on 19.7.2021, along with their associate, namely Samrat Bhattacharjee and Kamal Kanti Ghosh, who confined them and used defamatory language and that sister-in-law involved with her parents in concealing her articles. Addressing the issue of false implications of the family members without any specific allegations in the complaint lodged by the wife, the Hon'ble Supreme Court in **Geeta Mehrotra and Another versus state of Uttar Pradesh and Another (supra)** observed that-

"....casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in a

domestic quarrel taking place in a matrimonial dispute....”

14. Therefore on the face of the complaint, no materials can be found against the petitioner no. 3 and 4 to attract either 498A or 406 of IPC as alleged and against them no further proceeding should be allowed to be continued . So far the petitioner no. 1 and 2 are concerned, in the complaint it is mentioned about demand of dowry and giving jewellery and other articles at the time of marriage which took place in the year 2011 and no prior complaint can be found to have been lodged by the de facto complainant. Since the charge sheet has been submitted, the material collected in court of investigation also support the contention of the present petitioner that during the lifetime of the husband, she took call her jewellers from the custody of the parents in law by putting her signature which she never mentioned in the written complaint. It is also evident from the content of the written complaint that the de facto complainant and her husband used to reside in Mumbai since after marriage, and no whisper can be found about any torture inflicted upon her by the parents in law while she was staying in Mumbai and after demise of her husband when her minor daughter also infected with coronavirus, then only the dispute cropped up.

Section 498A of the Indian penal code defines cruelty which reads as follows.

“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."

15. In the present case, no whisper can be found regarding any such torture or cruelty meted out to her who is otherwise to that extent which can likely to drive the woman to commit suicide or to cause grave injury or danger of life, limb or health. On close scrutiny, of the entire facts and circumstances it is apparent that the dispute pertains to giving access to the Opposite Party no. 2 to reside in the residential house of the present petitioners in terms of section 12 of PWD Act, 2005, the right of residence of a married lady at her matrimonial house as shared household has been dealt with and the opposite party no. 2 has taken recourse to that provision. Whether the shared household will be given to her or not cannot be the concern in a proceeding emerged out of a complaint lodged under 498A or 406 of IPC. It is unfortunate that the opposite party no. 2 lost her husband, but this court cannot be oblivious to the fact that the aged parents too have lost their only son and because of the domestic dispute further they are deprived of having association of their granddaughter. The content of the written

complaints failed to disclose any such incident which can come within the parameters of 498A or 406 of the Indian Penal Code.

16. In a recent decision of Hon'ble Supreme Court in ***Dara Lakshmi Narayana and Others versus state of Telangana and Another (Supra)*** it was observed and held by the Hon'ble Supreme Court that:-

“30. The inclusion of Section 498A IPC, by way of an amendment was intended to guard cruelty inflicted on a woman by her husband and his family, ensuring swift intervention by the state. However, in recent years, as there has been a notable rise in matrimonial dispute across the country, accompanied by growing discord within the institution of marriage, consequently, there has been a growing tendency to misuse provisions like 498A IPC as a tool for unleashing, personal vendetta against the husband and his family by the wife. Making vague and generalised allegations during matrimonial conflicts, if not scrutinise, will lead to the misuse of legal process and an encouragement for use of on twisting tactics wife and or her family. Sometimes, recourse is taken to invoke section 498A IPC against the husband and his family in order to see compliance with the unreasonable demand of a wife. Consequently, the Supreme Court has, time and again, cautioned against prosecuting, the husband and his family in the absence of a clear primer case against them.”

17. In the present case as it can be found that the opposite party No.2 was living in her parents' house along with the minor daughter. By filing writ petition, the account of the present petitioners are also freezed on the prayer made by the opposite party no 2. A mere reference to the names of family members without specific allegations, indicating their active involvement should be nip in the bud as held by the Supreme Court in ***Dara Lakshmi Narayana and others (supra)***.

Conclusions

18. Hence, considering all the facts and circumstances, this court is unable to agree with the contention of the learned Senior Advocate, Mr Jayant Narayan Chatterjee, that it is a fit case which should be allowed to be continued since the charge levelled against the petitioners who are the parents in law, marriage, sister-in-law, and a distant relative and charge sheet has been filed.

19. Accordingly, this revisional application stands allowed.

20. The proceeding pending before the learned Magistrate being ACGR -2116/22 against the present petitioners are hereby quashed and they are discharged from their respective bail bond.

21. All connected applications are hereby disposed of.

22. Urgent certified copy of the order, if applied for, be provided to the parties upon observance of all necessary requirements.

[CHAITALI CHATTERJEE (DAS), J.]