

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 5340 of 2025

Sumitro Das @ Bappa & Ors.

Vs.

The State of West Bengal & Anr.

For the Petitioners : Mr. Anirban Dutta,
Mr. Abir Chakraborty.

For the State : Mr. Debashis Roy, Ld. PP
Mr. Suman De,
Mr. Sujan Chatterjee.

For the Opposite Party No. 2 : Mr. Kajal Mukherjee,
Mr. Bikash Chakraborty,
Mr. Sudepto Kumar Basu,
Ms. Pallabi Mondal.

Judgment reserved on : 15.01.2026

Judgment delivered on : 04.02.2026

SHAMPA DUTT (PAUL), J. :

1. The revisional application has been preferred praying for quashing and/or setting aside of proceedings in connection with G.R. Case No. 2343/2024, and charge sheet number 842 of 2024, dated 30.11.2024, under Sections 498A/506 of the Indian Penal Code arising out of

Madhyamgram police station case no. 600 of 2024 dated 05/09/2024 under Sections 498A/406/506 of the Indian Penal Code, presently pending before the learned Additional Chief Judicial Magistrate at Barasat, whereby the learned Magistrate was pleased to take cognizance of the purported charge sheet submitted by the investigating agency and fixed 26/09/2025 for supply of copy.

- 2.** The petitioners' case is that the petitioner no. 1, got married with the petitioner no. 2 on 4/8/1981, and out of such wedlock the petitioner no. 3 and 4 were born on 14/1/1987 and 16/5/1989 respectively. In the year 2005 the petitioner no. 1 had come in contact with the opposite party no. 2, who being a client of the petitioner no. 1 had expressed her estranged relationship with her husband and had started seeking financial help from the petitioner no. 1 frequently, which the said petitioner had extended a couple of times on humanitarian ground and thereby a friendly relationship developed between the said petitioner and the opposite party no.2.
- 3.** From 2013 onwards the opposite party no. 2 had started to pressurize the said petitioner to marry her. The opposite party no. 2 was well aware about the fact of the existence of the marriage of the petitioner no. 1, and when the said petitioner had denied such illegal proposal of the opposite party, the said opposite party had started blackmailing the petitioner by threatening to commit suicide if the said petitioner denies to succumb to such illegal proposal of the opposite party, and finally compelled the said

petitioner to get married with her on 25/1/2019, which was subsequently registered vide a purported marriage registration certificate dated 16/7/2019.

4. The opposite party no.2 has now filed a written complaint against the petitioners herein, which has been registered as Madhyamgram police station case no. 600 of 2024 dated 05/09/2024 for the offences punishable under Sections 498A/406/506 of the Indian Penal Code.

5. The allegations therein are as follows:-

*“The petitioner no.1 had come in contact with the opposite party as an agent of LIC, and subsequently **the petitioner no. 1 and the opposite party got married,** after such marriage the opposite party had come to know about the **existing previous marriage of the said petitioner,** and had visited the residence of the petitioners, wherein she was asked by the petitioners not to come there in future. Subsequently the petitioner no. 1 had demanded certain jewellery from the opposite party in order to buy a flat to live with her, which the opposite party had provided, but the said petitioner no. 1 in connivance with the petitioner nos. 2-5 had not bought any flat, and had further stopped keeping contact with the opposite party in order to misappropriate the jewelleries entrusted to him.”*

6. It is further stated that nothing was recovered during search and seizure from the petitioners' house in presence of the opposite party no.2 and

charge-sheet has been filed on 30.11.2024 under Sections 498A/506 of the Indian Penal Code.

7. After submission of the charge-sheet, on 21.05.2025, the opposite party no. 2 had further lodged a complaint case before the learned additional chief judicial magistrate at Barasat being case no. C. 952/25 under Sections 82(2)/316(2)/318(4) of the BNS, against the petitioner no. 1 on self same allegations. The said case is pending enquiry under Section 225 (1) of the BNSS.
8. It is the case of the petitioner no.1 and 2 that no offence as alleged, under Section 498A IPC is applicable in respect of the petitioners herein, the petitioner no.1 not being the legally wedded husband of the opposite party no.2/de facto complainant and the other petitioners thus not being the relatives of the husband of de facto complainant.
9. It is thus stated that in the present case, Section 498A IPC shall not be applicable/maintainable against the petitioners herein.
10. In ***Reema Aggarwal Vs. Anupam & Ors., in Appeal (Crl.) No. 25 of 2004, decided on 08.01.2004***, the Supreme Court has held that even a second wife can maintain a complaint under Section 498A IPC. The Court held:-

“.....The first exception to Section 494 has also some relevance. According to it, the offence of bigamy will not apply to "any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction". It would be appropriate to construe the expression 'husband' to cover a person who enters into marital relationship and under the colour of such proclaimed

or feigned status of husband subjects the woman concerned to cruelty or coerce her in any manner or for any of the purposes enumerated in the relevant provisions. Sections 304B/498A, whatever be the legitimacy of the marriage itself for the limited purpose of Sections 498A and 304B IPC. Such an interpretation, known and recognized as purposive construction has to come into play in a case of this nature. The absence of a definition of 'husband' to specifically include such persons who contract marriages ostensibly and cohabit with such woman, in the purported exercise of his role and status as 'husband' is no ground to exclude them from the purview of Section 304B or 498A IPC, viewed in the context of the very object and aim of the legislations introducing those provisions.....”

- 11. In *Mange Ram Vs. State of Madhya Pradesh & Anr., in Criminal Appeal No. Of 2025, (arising out of SLP (Crl.) No. 10817 of 2024), decided on August 12, 2025,* the Supreme Court held:-**

*“25. This Court, in **Dara Lakshmi Narayana vs. State of Telangana, (2025) 3 SCC 735**, has made it clear that family members of the husband ought not to be unnecessarily roped into criminal proceedings arising out of matrimonial discord. The Court observed that it has become a recurring tendency to implicate every member of the husband’s family, irrespective of their role or actual involvement, merely because a dispute has arisen between the spouses. It was further held that where the allegations are bereft of specific particulars, and particularly where the relatives sought to be prosecuted are residing separately or have had no connection with the matrimonial home, allowing the prosecution to proceed would amount to an abuse of the process of law. The Court noted that criminal law is not to be Page 16 of 23 deployed as an instrument of harassment, and that judicial scrutiny must be exercised to guard against such misuse.*

12. The judgment in ***Muskan Vs. Ishaan Khan (Sataniya) And Ors., in Criminal Appeal No. 4752 of 2025, (arising out of SLP (Crl.) No. 1531 of 2025), decided on November, 06, 2025,*** relied upon by the opposite party no.2 is not applicable to the facts and circumstances in the present case.
13. In the present case, the allegations in the written complaint and the materials in the case diary against the petitioners herein, do not prima facie make out the offences alleged, as none of the essential ingredients to constitute the offences alleged, are on record, there being absolutely no evidence of such ingredients being present in respect of the said offences.
14. **CRR 5340 of 2025 is allowed.**
15. Accordingly, the proceedings in G.R. Case No. 2343/2024, and charge sheet number 842 of 2024, dated 30.11.2024, under Sections 498A/506 of the Indian Penal Code arising out of Madhyamgram police station case no. 600 of 2024 dated 05/09/2024 under Sections 498A/406/506 of the Indian Penal Code, presently pending before the learned Additional Chief Judicial Magistrate at Barasat, **is hereby quashed in respect of the petitioners namely Sumitro Das @ Bappa, Srabani Das, Maharshi Das, Debarshi Das and Samita Das.**
16. All connected Applications, if any, stands disposed of.
17. Interim order, if any, stands vacated.

18. Copy of this order be sent to the learned Trial Court for necessary compliance.
19. Urgent certified website copy of this Judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

[Shampa Dutt (Paul). J]