

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
(Criminal Revisional Jurisdiction)
APPELLATE SIDE**

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 167 of 2026

Sri Babai Das & Ors.

Vs.

The State of West Bengal & Anr.

For the Petitioners : Ms. Suman Sehanabis
Mr. Salok Sah
Ms. Anwesha Chakraborty.

For the Opposite Party No. 2 : Mr. Subhasish Misra.

For the State : Mr. Avrojoyti Das, Ld. APP
Mr. Debabrata Rai.

Judgment reserved on : 18.06.2026

Judgment delivered on : 18.06.2026

Shampa Dutt (Paul), J.:

1. The revisional application has been preferred praying for quashing of the criminal proceedings, being G.R.No.1766 of 2024 arising out of Pundibari Police Station Case No.731 of 2024 dated 15.09.2024 under Sections 85, 74 and 109 of the Bharatiya Nyay Sanhita, 2023 read with Sections 3 and 4 of the Dowry Prohibition Act pending before the Learned Chief Judicial Magistrate, Sadar, Cooch Behar.
2. On hearing the learned counsel for the petitioners, learned counsel for the de facto complainant and the learned counsel for the State, who has placed the case diary, it appears that the parties were initially married on 06.07.2013 and a decree of nullity of marriage (ex parte) was passed on 10.04.2017. Subsequently the parties amicably settled **and re-married on 30.11.2020**. The de facto complainant left her matrimonial home on 29.03.2023. Admittedly, the FIR in the present case has been registered on 15.09.2024 with several allegations of mental and physical cruelty and finally on the allegation that on 14.09.2024 the husband of the de facto complainant had come to her residence and threatened her and also forcibly tried to make her sign documents for divorce by mutual consent. This is the final allegation which has been made stating that the said incident occurred on 14.09.2024. **FIR was filed on 15.09.2024, that is almost one and half years after leaving the husband/petitioner's house.**

3. Learned counsel for the petitioners has placed two documents, one at page 35 and other at page 39 to substantiate her argument that the petitioner no. 1 (husband) was not at the place, as alleged by the de facto complainant on 14.09.2024, that is at Pundibari, but he was at his place of work at Garbeta, Paschim Medinipur which is very far away from Cooch Behar (695 kms). It is, thus, submitted that the allegations of the de facto complainant are false, as not substantiated and prima facie also disproved by the documents at page 35 and 39.

4. Learned counsel for the de facto complainant has vehemently argued that there are serious allegations against the petitioners including the fact that the petitioner no.1 has an alleged illicit relationship and as such a prima facie case is made out. It is further stated that several cases have been initiated by the de facto complainant and as such the prayer of the petitioners for quashing of the criminal proceedings in G.R. No.1766 of 2024 arising out of Pundibari Police Station Case No.731 of 2024 dated 15.09.2024 under Sections 85, 74 and 109 of the Bharatiya Nyay Sanhita, 2023 read with Sections 3 and 4 of the Dowry Prohibition Act pending before the Learned Chief Judicial Magistrate, Sadar at Cooch Behar should not be entertained.

5. In ***Dara Lakshmi Narayana & Ors. vs State of Telangana & Anr., in Criminal Appeal No. of 2024 (arising out of SLP (Criminal) No. 16239 of 2024, decided on December 10, 2024,*** the Supreme Court held:-

“15. An offence is punishable under Section 498A of the IPC when a husband or his relative subjects a woman to cruelty, which may result in imprisonment for a term extending up to three years and a fine. The Explanation under Section 498A of the IPC defines “cruelty” for the purpose of Section 498A of the IPC to mean any of the acts mentioned in clauses (a) or (b). The first limb of clause (a) of the Explanation of Section 498A of the IPC, states that “cruelty” means any wilful conduct that is of such a nature as is likely to drive the woman to commit suicide. The second limb of clause (a) of the Explanation of Section 498A of the IPC, states that cruelty means any wilful conduct that is of such a nature as to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman. Further, clause (b) of the Explanation of Section 498A of the IPC states that cruelty would also include harassment of the woman where such harassment is to coerce 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.

16. Further, Section 3 of the Dowry Act deals with penalty for giving or taking dowry. It states that any person who engages in giving, taking, or abetting the exchange of dowry, shall face a punishment of imprisonment for a minimum of five years and a fine of not less than fifteen thousand rupees or the value of the dowry, whichever is greater. Section 4 of the Dowry Act talks of penalty for demanding dowry. It states that any person demanding dowry directly or indirectly, from the parents or other relatives or guardians of a bride or bridegroom shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years and with fine which may extend to ten thousand rupees.

18. A bare perusal of the FIR shows that the allegations made by respondent No.2 are vague and omnibus. Other than claiming that appellant No.1 harassed her and that appellant Nos.2 to 6 instigated him to do so, respondent No.2 has not provided any specific details or described any particular instance of harassment. She has also not mentioned the time, date, place, or manner in which the alleged harassment occurred. Therefore, the FIR lacks concrete and precise allegations.

25. *A mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is a well-recognised fact, borne out of judicial experience, that there is often a tendency to implicate all the members of the husband's family when domestic disputes arise out of a matrimonial discord. Such generalised and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis for criminal prosecution. Courts must exercise caution in such cases to prevent misuse of legal provisions and the legal process and avoid unnecessary harassment of innocent family members. In the present case, appellant Nos.2 to 6, who are the members of the family of appellant No.1 have been living in different cities and have not resided in the matrimonial house of appellant No.1 and respondent No.2 herein. Hence, they cannot be dragged into criminal prosecution and the same would be an abuse of the process of the law in the absence of specific allegations made against each of them.*

28. *The inclusion of Section 498A of the IPC by way of an amendment was intended to curb cruelty inflicted on a woman by her husband and his family, ensuring swift intervention by the State. However, in recent years, as there have been a notable rise in matrimonial disputes across the country, accompanied by growing discord and tension within the institution of marriage, consequently, there has been a growing tendency to misuse provisions like Section 498A of the IPC as a tool for unleashing personal vendetta against the husband and his family by a wife. Making vague and generalised allegations during matrimonial conflicts, if not scrutinized, will lead to the misuse of legal processes and an encouragement for use of arm twisting tactics by a wife and/or her family. Sometimes, recourse is taken to invoke Section 498A of the IPC against the husband and his family in order to seek compliance with the unreasonable demands of a wife. Consequently, this Court has, time and again, cautioned against prosecuting the husband and his family in the absence of a clear prima facie case against them.*

29. *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 counterblast 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 the 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.

30. *In the above context, this Court in **G.V. Rao vs. L.H.V. Prasad, (2000) 3 SCC 693** observed as follows:*

“12. There has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their “young” days in chasing their “cases” in different courts.”

31. *Further, this Court in **Preeti Gupta vs. State of Jharkhand (2010) 7 SCC 667** held that the courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment by the husband’s close relatives who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to be scrutinized with great care and circumspection.*

32. *We, therefore, are of the opinion that the impugned FIR No.82 of 2022 filed by respondent No.2 was initiated with ulterior motives to settle personal scores and grudges against*

*appellant No.1 and his family members i.e., appellant Nos.2 to 6 herein. Hence, the present case at hand falls within category (7) of illustrative parameters highlighted in **Bhajan Lal**. Therefore, the High Court, in the present case, erred in not exercising the powers available to it under Section 482 CrPC and thereby failed to prevent abuse of the Court's process by continuing the criminal prosecution against the appellants."*

6. **The materials in the case diary in the present case shows that the allegations are general in nature. The allegations made by the de facto complainant has also not been substantiated. As such permitting the case to proceed against the petitioners herein, will clearly be an abuse of the process of law, considering that none of the ingredients required to constitute the offences alleged are present against the petitioners herein.**
7. **CRR 167 of 2026 is thus allowed.**
8. The proceeding being G.R.No.1766 of 2024 arising out of Pundibari Police Station Case No.731 of 2024 dated 15.09.2024 under Sections 85, 74 and 109 of the Bharatiya Nyay Sanhita, 2023 read with Sections 3 and 4 of the Dowry Prohibition Act pending before the Learned Chief Judicial Magistrate, Sadar at Cooch Behar, **is hereby quashed in respect of the petitioners namely Babai Das, Amarendra Nath Das, Manika Das, Sumana Das and Joyjyoti Ghosh.**
9. All connected applications, if any, stands disposed of.
10. Interim order, if any, stands vacated.
11. Copy of this judgment be sent to the learned Trial Court for necessary compliance.

- 12.** Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)