

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL REVISIONAL JURISDICTION

Present:

The Hon'ble Justice Tirthankar Ghosh

C.R.R. 272 of 2025

Sri Mithun Das and others
versus
The State of West Bengal and another

For the Petitioners : Mr. Nripen Sarkar,
Mr. Samrat Acharya,
Mr. Adhish Newar,
Mr. Debanjan Das.

For the State : Mr. Aditi Shankar Chakraborty, Ld. APP,
Mr. Kallol Acharjee,
Mr. Tapan Bhattacharjee.

For the Opposite Party No.2. : Mr. Subhasish Misra,
Mr. Satyajit Paul,
Mr. Rounak Ghosh.

Heard On : 15.01.2026.

Judgement On : 15.01.2026.

Tirthankar Ghosh, J. :

Petitioners have prayed for quashing of the proceedings in connection with Pradhan Nagar P.S. Case No. 238 of 2022 dated 02.04.2022 under Sections 498A/304B of the Indian Penal Code as also the order dated 18.02.2025 passed in connection with the Sessions Case No. 117 of 2022

pending before learned Additional District and Sessions Judge, Fast Track Court, Siliguri.

The petitioners before this Court are the husband, father-in-law, mother-in-law, sister-in-law and brother-in-law of the deceased. The investigating agency, on completion of investigation, submitted charge-sheet before the jurisdictional court under the provisions of Sections 498A/304B of the Indian Penal Code.

Learned advocate appearing for the petitioners submits that the charge-sheet and its accompaniments which includes the statement of the witnesses, the opinion of the scientific experts as also the opinion of the handwriting expert who examined the suicide note of the deceased and arrived at a finding which exonerate all the accused persons from the charges levelled against them. Learned advocate in order to fortify his arguments referred to a judgement of the Hon'ble Supreme Court in Vishnu Kumar Shukla & Anr. Vs. State of Uttar Pradesh & Anr. reported in AIR 2024 SC 90. Emphasis is made on paragraph 23 of the said judgement which is set out as follows :

“23. *On a careful conspectus of the legal spectrum, juxtaposed with our view on the facts and merits expressed hereinbefore, we are satisfied that there is no suspicion, much less strong or grave suspicion that the appellants are guilty of the offence alleged. It would be unjustified to make the appellants face a full-fledged criminal trial in this backdrop. In an appeal dealing with the refusal of the High Court to quash an FIR under Section 482, CrPC albeit, this Court, while setting aside the judgment impugned therein and quashing that FIR, took the*

view that ‘...the Appellants are to be protected against vexatious and unwarranted criminal prosecution, and from unnecessarily being put through the rigours of an eventual trial.’ The protection against vexatious and unwanted prosecution and from being unnecessarily dragged through a trial by melting a criminal proceeding into oblivion, either through quashing a FIR/ Complaint or by allowing an appeal against an order rejecting discharge or by any other legally permissible route, as the circumstances may be, in the deserving case, is a duty cast on the High Courts. The High Court should have intervened and discharged the appellants. But this Court will intervene, being the sentinel on the qui vive.”

Learned advocate for the petitioners submits that the continuance of the trial wherein no fruitful purpose would be served and an eventual acquittal on the face of it is apparent, the accused at the stage of Section 227 of the Code of Criminal Procedure is entitled to be discharged.

Learned advocate appearing for the State has produced the case diary.

I have gone through the materials available in the case diary which incorporates the statement of the witnesses and includes the statements of relations as well as the neighbours, the *post mortem* report, the suicide note as well as the opinion of the handwriting expert.

It would not be out of place to state that the deceased was married to the petitioner no.1 and within a period of five years, according to the *de facto* complainant, there were circumstances which led to the unfortunate series of events of the deceased breathing her last. In a criminal case, it is not the quantity of evidence which is important, but what is important is the quality of

the evidence. The law relating to presumptions within seven years of marriage has also been settled. Both the provisions viz. Section 498A and Section 304B of the Indian Penal Code were incorporated by way of amendment in the Penal Code because of societal harassment of married woman at the matrimonial house. Such cases are to be distinguished from ordinary cases based on documentary evidence where the Court can delve more deep to assess in between the lines regarding the nature of the offence committed.

In this case, while a section of the witnesses do not complain of torture, but the parents of the deceased do complain of day-to-day regular torture being inflicted upon the deceased and the manner in which she was maltreated at her matrimonial home which led to the unfortunate eventuality. The legislature in Section 113B of the Indian Evidence Act was pleased to incorporate presumptions under Section 113B of the Indian Evidence Act wherein it has been stated that if the woman has been subjected to cruelty or harassment for, or in connection with any demand for dowry soon before her death, the Court shall presume that such person had caused the dowry death. Although presumptions do not take the place of proof, but the same has to be appreciated at a particular stage of the case. Merely the content of the suicidal note, even if it is accepted to be true, expresses certain frustration. There cannot be a universal acceptance that only on the basis of the said document, an accused is to be discharged from the case. Each case has to be decided on its own merits.

The learned Trial Court, while assessing the prayer of the petitioners, took into account the allegation in the complaint which has been treated to be the FIR which includes the demand of cash amount and other articles which were given at the time of marriage. The learned trial Court also took into account the contention that 25 days prior to the date of demise of the victim when she visited the paternal house, the parents also observed the mental disturbance of the victim and on query, she narrated that she was starved and also disclosed relating to other cruelties which were being inflicted upon her.

Needless to state that in cases relating to presumptions which run contrary, the factual foundations are required to be laid down by the prosecution and such factual foundations are to be rebutted by the accused persons. Mere cryptic reading of one or two statements or one or two materials cannot lead to an inference that no case has been made out. Having considered the same, I am of the view that this is not a fit case for interference by this Court. The judgment of the Hon'ble Supreme Court, relied upon by the learned advocate for the petitioners, was on a separate set of factual circumstances and is not applicable to the facts and circumstances of the present case.

Considering the same, I am of the view that no interference is called for by this Court at this stage of the proceedings when the case is left for consideration of the charges.

Accordingly, the revisional application being CRR 272 of 2025 is dismissed.

Case Diary be returned to the learned advocate appearing for the State.

Pending application, if any, is consequently disposed of.

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

Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)