

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

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 455 of 2025

**Shovan Kumar Das & Ors.
Vs
The State of West Bengal & Anr.**

For the Petitioners : Mr. Amitabha Ghosh,
Mr. Avimannu Das.

For the State : Mr. Avrojoyoti Das, Ld. APP.
Mr. Rajyashree Ghosh.

Judgment reserved on : 15.06.2026

Judgment delivered on : 15.06.2026

Shampa Dutt (Paul), J.:

1. The revisional application has been preferred praying for quashing of proceedings in Bagdogra Police Station Case No.212 of 2025 dated 21.06.2025 corresponding to PTN No.WBDJOEPOO 3462025 under Section 85 of the Bharatiya Naya Sanhita 2023, pending before the Learned Additional Chief Judicial Magistrate Siliguri, Darjeeling.
2. The complainant being the Opposite Party No. 2 herein filed a written complaint dated 22.09.2023 with the Officer in charge of Bagdogra Police Station, alleging that her husband, being the Petitioner No. 1

herein after 7 years of their marriage started to inflict physical and mental torture upon her and also allegedly forced her to have sex with other persons. And on being refused, the complainant was subjected to physical abuse by her husband.

3. It is further alleged that the complainant reported the aforesaid cruel acts of her husband to her in-laws being the other Petitioners herein, who instead of supporting her, asked her to leave her matrimonial home and ultimately she left her matrimonial home on 21.9.2023 and hence the complaint which gave rise to a specific criminal case being Bagdogra Police Station Case No. 469 of 2023 dated 22.9.2023 under section 498A of the Indian Penal Code 1860. The concerned Investigating Officer after completion of the investigation has submitted a final report in the form of charge sheet being No. 432 of 2023 dated 27.10.2023.
4. Learned Counsel for the State on placing the case diary has fairly submitted that the complainant in the present case has **registered 3(three) cases on the self same allegations.**
5. **The details of the said cases are as follows:-**
 - i. **12.5.2018:** The marriage between the petitioner and opposite part no.2 was solemnised.
 - ii. **22.9.2023:** The opposite party no. 2 lodged a written complaint which gave rise to FIR being Bagdogra police station case no. 469 of 2023 under section 498A IPC 1860 against the petitioners.
 - iii. **18.9.2024:** The opposite party no. 2 lodged another complaint which gave rise a FIR being Balurghat police

station case no. 76 of 2024 under sections 85/3(5) BNS 2023, against the petitioners.

iv. **21.6.2025:** The petitioner lodged the 3rd complaint which gave rise to a FIR, being Bagdogra police station case no. 212 of 2025 under section 85 BNS 2023 against the Petitioners.

6. On hearing the Learned Counsels for the parties and on perusal of the materials including the case diary, it appears that all the 3(three) cases filed are based on the self same and similar allegations which appear to be general in nature.

7. **FIR in the present case is the 3rd FIR, in respect of the self same allegation.**

8. In ***Kapil Agarwal & Ors. Vs Sanjay Sharma & Ors., Criminal Appeal No. 142 of 2021, on 01.03.2021***, the Supreme Court held:-

“5. We have heard the learned counsel for the respective parties at length.

It is the case on behalf of the appellants that as on the same allegations, the private respondent-complainant has filed an application under Section 156(3) Cr.P.C., which is pending before the learned Magistrate, the impugned FIR with the same allegations and averments would not be maintainable, and therefore, the FIR lodged with the police station Loni Border, District Ghaziabad deserves to be quashed and set aside. The aforesaid cannot be accepted for the simple reason that Code of Criminal Procedure permits such an eventuality of a complaint case and enquiry or trial by the Magistrate in a complaint case and an investigation by the police pursuant to the FIR. At this stage, Section 210 Cr.P.C. is required to be referred to, which reads as under:

“210. Procedure to be followed when there is a complaint case and police investigation in respect of the same offence – (1) When in a case instituted otherwise than on a police report (hereinafter referred to as a complaint case), it is made to

appear to the Magistrate, during the course of the inquiry or trial held by him, that an investigation by the police is in progress in relation to the offence which is the subject- matter of the inquiry or trial held by him, the Magistrate shall stay the proceedings of such inquiry or trial and call for a report on the matter from the police officer conducting the investigation. (2) If a report is made by the investigating police officer under section 173 and on such report cognizance of any offence is taken by the Magistrate against any person who is an accused in the complaint case, the Magistrate shall inquire into or try together the complaint case and the case arising out of the police report as if both the cases were instituted on a police report. (3) If the police report does not relate to any accused in the complaint case or if the Magistrate does not take cognizance of any offence on the police report, he shall proceed with the inquiry or trial, which was stayed by him, in accordance with the provisions of this Code.”

Thus, as per Section 210 Cr.P.C., when in a case instituted otherwise than on a police report, i.e., in a complaint case, during the course of the inquiry or trial held by the Magistrate, it appears to the Magistrate that an investigation by the police is in progress in relation to the offence which is the subject matter of the inquiry or trial held by him, the Magistrate shall stay the proceedings of such inquiry or trial and call for a report on the matter from the police officer conducting the investigation. It also provides that if a report is made by the investigating police officer under Section 173 Cr.P.C. and on such report cognizance of any offence is taken by the Magistrate against any person who is an accused in the complaint case, the Magistrate shall inquire into or try together the complaint case and the case arising out of the police report as if both the cases were instituted on a police report. It also further provides that if the police report does not relate to any accused in the complaint case or if the Magistrate does not take cognizance of any offence on the police report, he shall proceed with the inquiry or trial, which was stayed by him, in accordance with the provisions of Cr.P.C.

Thus, merely because on the same set of facts with the same allegations and averments earlier the complaint is filed, there is no bar to lodge the FIR with the police station with the same allegations and averments.

6. However, at the same time, if it is found that the subsequent FIR is an abuse of process of law and/or the same has been lodged only to harass the accused, the same can be quashed in exercise of powers under

Article 226 of the Constitution or in exercise of powers under Section 482 Cr.P.C. In that case, the complaint case will proceed further in accordance with the provisions of the Cr.P.C.

6.1 As observed and held by this Court in catena of decisions, inherent jurisdiction under Section 482 Cr.P.C. and/or under Article 226 of the Constitution is designed to achieve salutary purpose that criminal proceedings ought not to be permitted to degenerate into weapon of harassment. **When the Court is satisfied that criminal proceedings amount to an abuse of process of law or that it amounts to bringing pressure upon accused, in exercise of inherent powers, such proceedings can be quashed.**

6.2 As held by this Court in the case of *Parbatbhai Aahir v. State of Gujarat* (2017) 9 SCC 641, Section 482 Cr.P.C. is prefaced with an overriding provision. The statute saves the inherent power of the High Court, as a superior court, to make such orders as are necessary (i) to prevent an abuse of the process of any Court; or (ii) otherwise to secure the ends of justice. Same are the powers with the High Court, when it exercises the powers under Article 226 of the Constitution.

8. We are not expressing anything on merits whether, any case is made out against the appellants for the offences alleged in 156(3) Cr.P.C. application as the same is pending before the learned Magistrate and the learned Magistrate is to take call on the same. Therefore, when the impugned FIR is nothing but an abuse of process of law and to harass the appellants-accused, we are of the opinion that the High Court ought to have exercised the powers under Article 226 of the Constitution of India/482 Cr.P.C. **and ought to have quashed the impugned FIR to secure the ends of justice.”**

- 9.** 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.”*

10. The materials in the case diary also shows that the allegations are general in nature and the written complaint in the case is the third

FIR in respect of the self same allegations, and as such permitting the present 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.

11. CRR 455 of 2025 is thus allowed.

12. The proceeding in Bagdogra Police Station Case No.212 of 2025 dated 21.06.2025 corresponding to PTN No.WBDJOEPOO 3462025 under Section 85 of the Bharatiya Naya Sanhita 2023, pending before the Learned Additional Chief Judicial Magistrate Siliguri, Darjeeling, **is hereby quashed in respect of the petitioners namely Shovan Kumar Das, Anjali Das, Thithi @ Tithi Das and Diti Das.**

13. All connected applications, if any, stands disposed of.

14. Interim order, if any, stands vacated.

15. Copy of this judgment be sent to the learned Trial Court for necessary compliance.

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

(Shampa Dutt (Paul), J.)