

(2026) 02 CAL CK 1597
In the Calcutta High Court
Case No : CRR 882 of 2022

Ashis Kumar Dutta & Anr

APPELLANT

Vs

State of West Bengal & Ors

RESPONDENT

Date of Decision : 20-02-2026

Acts Referred:

Constitution of India, 1950 — Article 21
Code of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 34, 406, 498(A), 506
Dowry Prohibition Act, 1961 — Section 3, 4

Citation : (2026) 02 CAL CK 1597

Hon'ble Judges : Uday Kumar, J

Bench : Single Bench

Advocate : Aritra Bhattacharyya, Bitasok Banerjee

Final Decision : Disposed Of

Judgement

Uday Kumar, J

1. This is an application under Section 482 of the Code of Criminal Procedure, 1973 (now Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023), seeking to invoke the inherent jurisdiction of this Court for quashing the proceedings in G.R. Case No. 1883 of 2017, presently pending before the Learned Additional Chief Judicial Magistrate, Howrah. The said proceedings originated from Bantra P.S. Case No. 99/2017 dated 30.03.2017 under Sections 498A/406/506/34 of the Indian Penal Code read with Sections 3 and 4 of the Dowry Prohibition Act. The fine balance between protecting a woman's right to prosecute domestic cruelty and shielding the husband's extended family from the rigors of a malicious or over-inclusive prosecution are involved. The Petitioners seek the exercise of this Court's inherent power to prevent what they characterize as an abuse of the criminal machinery in a matrimonial dispute.

2. The factual matrix, as unfolded during the extensive hearing, reveals a marital union between the Petitioner No. 1(Ashis Kumar Dutta, a practicing Advocate)

and the Opposite Party No. 2 (Kasturi Dutta) that commenced on November 28, 2005. The marriage remained functionally intact for approximately twelve years, during which the parties resided together and twin daughters were born in 2012.

3. The peace of this domesticity, however, allegedly shattered on March 30, 2017, the day the wife left the matrimonial home. While the wife alleges a forced ouster, the husband contends the departure was a voluntary withdrawal from his society, facilitated by her father, who purportedly signed a "No-Complaint" declaration on the self-same date.

4. The complainant (wife) alleges that shortly after marriage, she became the target of sustained physical and mental cruelty fuelled by insatiable dowry demands. The narrative reaches its crescendo on 30.03.2017, when she claims she was physically assaulted and ousted from her matrimonial home "in a single cloth" after her father failed to provide Rs. 1,00,000 for a four-wheeler. She further alleged a history of drunken abuse by Petitioner No. 2 (Brother-in-law) and the misappropriation of her Stridhan.

5. Conversely, the Petitioners present a sharply divergent account. Petitioner No. 1, a practicing advocate of this Court, contends that the marriage was plagued by the wife's alleged extramarital involvement. He places heavy reliance on a written declaration signed by the wife's father on the very day of the separation, asserting that the departure was voluntary and devoid of grievances.

6. He claims the wife left voluntarily with her father and brother-in-law. Crucially, he relies on a "Written Declaration" signed by the wife's father on that date, stating he had no grievances against the in-laws. The husband immediately filed for Restitution of Conjugal Rights (Matrimonial Suit No. 649/2018) and lodged a General Diary (GDE No. 1839) reporting her departure.

7. Following investigation, the police submitted a Charge Sheet (No. 76/2017) against the husband and brother-in-law, leading to the present Revisional Application.

8. Mr. Aritra Bhattacharyya, Learned Counsel for the Petitioners argued with much vehemence that the criminal machinery has been weaponized as a "counter-blast" to the husband's prior filing of a Matrimonial Suit for Restitution of Conjugal Rights. The FIR of wife is a "counter-blast" to the husband's matrimonial suit. He relied extensively on the ratio in *State of Haryana v. Bhajan Lal* (1992), submitting that the allegations are so "absurd and inherently improbable" that no prudent person could reach a conclusion that there is sufficient ground for proceeding.

9. They emphasized the twelve-year delay in reporting dowry demands and the father's "No-Complaint" declaration as evidence of a manufactured case. Regarding Petitioner No. 2, they cited *Kahkashan Kausar @ Sonam v. State of Bihar* (2022), arguing the allegations are "vague and omnibus," against the brother-in-law (Petitioner No. 2).

10. On the other hand, Mr. Bitasok Banerjee, Learned Counsel for the State and the Opposite Party No. 2 contended that a Charge Sheet has already been submitted. It was argued that the "No-Complaint" letter and the allegations of an extramarital affair are factual defences which must be tested in the crucible of a trial. They maintained that at this stage, the Court cannot engage in a "mini-trial" or weigh the evidence. Once a Charge Sheet is filed, the High Court cannot usurp the functions of a Trial Court. He argued that "mini-trials" are prohibited under Section 482 and that the veracity of the father's "No-Complaint" letter is a matter of evidence to be adjudicated below.

11. Mr. Banerjee, Learned Advocate for the State relied on *State of Delhi v. Gyan Devi and Others* (2000) 8 SCC 239, contending that once a Charge-Sheet is filed, the Court should not stifle the trial or engage in a "mini-trial" of evidence.

12. The core question that falls for determination by this Court is whether the materials collected during the investigation, when taken at face value, disclose a prima facie case against both the Petitioners, or whether the proceedings constitute an abuse of the process of law requiring the corrective intervention of this Court under Section 482 of the Code of Criminal Procedure.

13. I have carefully considered the submissions of the learned counsel for the parties and perused the Case Diary alongside the parallel proceedings under the Domestic Violence Act. The matter necessitates a profound analysis of the interplay between the protective intent of Section 498A of the Indian Penal Code and the inherent power of the High Court to prevent the legal machinery from being utilized as a tool for "wholesale involvement" of family members to settle marital scores.

14. The judicial trend on the misuse of 498A, as established in *Preeti Gupta v. State of Jharkhand* (2010) 7 SCC 667, the Apex Court noted at Paragraph 32:

32. "It is a matter of common experience that most of these complaints under section 498-A IPC are filed in the heat of the moment over trivial issues without proper celebrations of the implications of the FIR... the allegations of the complaint are very often made with a view to involve the (husband's) entire family... the courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration."

15. Same is reaffirmed by of the Hon'ble Supreme Court in the recent case of *KahkashanKausar @ Sonam v. State of Bihar* (2022) 6 SCC 599. This case is the primary authority for quashing "vague and omnibus" allegations against in-laws. This Court finds guidance in the observations, where the Court held:

18. "The High Court ought to have been mindful of the fact that the appellants were the in-laws of the respondent... and that the allegations against them were general and omnibus, lacking any specific overt acts. This Court has at numerous instances expressed concern over the growing trend of roping in all family members in matrimonial disputes. The tendency of implicating husband and all

his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is realized that the complaint was filed with a view to harass the husband's family. Therefore, it is the duty of the Court to judge every case with caution and care."

22. "Therefore, upon perusal of the contents of the FIR, it is revealed that general and omnibus allegations are made against the appellants... In the absence of any specific role attributed to the accused-appellants, it would be unjust if they are forced to go through the tribulations of a trial."

16. In matrimonial disputes, we are increasingly witnessing a phenomenon where the "process becomes the punishment." Consequently, this Court finds it imperative to distinguish between "status-based implication" and "act-based liability." As observed, the mere status of being a relative (in-law) of the husband does not suffice to sustain a prosecution; criminal liability must be individualized, requiring a surgical scrutiny of the specific roles attributed to each accused.

17. Upon a factual scrutiny of FIR, Case Diary and the statement of the complainant, the allegations against Petitioner No. 2 (Brother-in-law) Tapas Kumar Dutta, are that he "regularly abused her in a drunken condition," and joined in the general demand for dowry, are found to be general and omnibus in nature. This Court finds a total absence of specific dates, times, or overt acts of cruelty attributed specifically to him.

18. Relying on the mandate of the Hon'ble Supreme Court in *Kahkashan Kausar @ Sonam v. State of Bihar* (2022) 6 SCC 599, this Court holds that such vague assertions create a "legal void" rather than a triable fact. As noted in Paragraph 18 of the said precedent, the High Court is duty-bound to prevent the growing trend of roping in all family members in matrimonial disputes where allegations lack specific overt acts.

19. The case against the husband (Petitioner No. 1), however, stands on a different footing. The complainant has alleged specific demands of Rs. 1,00,000 for a four-wheeler and a specific instance of physical ouster on 30.03.2017. While the "No-Complaint" declaration signed by her father is a potent weapon for the husband's defense, its validity and the circumstances under which it was signed are questions of fact. Its veracity must be tested in the "crucible of a trial" as argued by the State.

20. This Court, therefore, applies the "Filter Theory" of jurisprudence under Section 482. Our duty is not a binary choice between total dismissal or total allowance; it is a duty to act as a gatekeeper and "filter" the proceedings. If a relative is accused only of "mental torture" or "general abuse" without specific details, there is no "fact" to dispute. In such instances, forcing a relative to undergo a protracted criminal trial based on "soft grievances" constitutes a manifest travesty of justice and a violation of the fundamental right to life under Article 21 of the Constitution. By quashing the case against Petitioner No. 2, the Court filters out the "background noise" while keeping the "core conflict" intact.

21. Conversely, the case against Petitioner No. 1, the husband, stands on a fundamentally different footing. The complainant has alleged "hard facts," specifically a demand of Rs. 1,00,000/- for a four-wheeler and a dated instance of physical ouster on 30.03.2017. While the Petitioner relies upon a "No-Complaint" declaration signed by the wife's father—a "potent weapon" for the defense—its veracity must be tested in the "crucible of a trial." Under the principles of *Gyan Devi v. State*, this Court in its revisional jurisdiction cannot substitute its own appreciation of evidence for that of the Trial Court.

22. The "Defense-Evidence Bar" at the threshold stage prevents this Court from accepting the "No-Complaint" letter as absolute truth. As established in *State of Haryana v. Bhajan Lal* (1992) and *Neeharika Infrastructure* (2021), once "Specific Overt Acts" are alleged, the existence of a contradictory defense document merely creates a "Disputed Fact." The authenticity, voluntariness, and context of such a document are matters of evidence, not law, and can only be adjudicated through cross-examination. The distinction between a "bad case" and a "legally unsustainable case" is vital; while the husband's defense may appear strong, it does not render the FIR "inherently improbable" at the threshold.

23. In view of the exhaustive discussions above, this Court arrived at findings that criminal proceedings against distant relatives based on vague, non-specific allegations constitute an abuse of process, and factual defenses and "No-Complaint" documents are matters of trial evidence and do not automatically warrant quashing for the primary accused (the husband) if specific overt acts are alleged.

24. Therefore, this court concludes that the proceedings against Petitioner No. 2 lack the requisite specificity and appear to be a result of over-implication; hence, continuing the trial against him would constitute an abuse of the process of law, and the proceedings against Petitioner No. 1 disclose triable issues regarding dowry demand and physical cruelty, which require evidence and cross-examination.

25. In view of the findings recorded above, the present Revisional Application being 882 of 2022, is partly allowed.

26. The proceedings in G.R. Case No. 1883 of 2017, arising out of Bantra P.S. Case No. 99 of 2017, presently pending before the Court of the Learned Additional Chief Judicial Magistrate, Howrah, are hereby quashed and set aside only insofar as they relate to Petitioner No. 2, Tapas Kumar Dutta.

27. Petitioner No. 2 is discharged from his bail bonds, and any restrictive orders passed against him in connection with this case stand vacated.

28. The prayer for quashing the proceedings against Petitioner No. 1 (Ashis Kumar Dutta) is rejected. The Criminal trial against him shall proceed in accordance with the law.

29. The Learned Trial Court is directed to proceed as expeditiously as possible, remaining uninfluenced by any observations made herein regarding the merits of the evidence.
30. The Department is directed to communicate this order to the Learned Court below immediately.
31. CRR No. 882 of 2022 is thus disposed of.
32. There shall be no order as to costs.
33. All consequential Interim order/orders, if any, shall stand vacated.
34. The Trial Court Record (TCR), if any, shall be sent down to the Trial Court, at once.
35. The Case Diary produced by the State, if any, be returned to the Learned Advocate for the State.
36. Urgent Photostat certified copy of this judgment, if applied for, be given to the parties, as expeditiously as possible, upon compliance with the necessary formalities in this regard.