

(2025) 08 CAL CK 0649
In the Calcutta High Court, Appellate Side
Case No : CRR 2358 Of 2016

Tapan Kumar Basu @ Tapan Basu & Anr	APPELLANT
Vs	
State of West Bengal & Anr RESPONDENT	RESPONDENT

Date of Decision : 22-08-2025

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 34, 406, 498(A)
Dowry Prohibition Act, 1961 — Section 3, 4

Citation : (2025) 08 CAL CK 0649

Hon'ble Judges : Uday Kumar, J

Bench : Single Bench

Advocate : Tithi Majumder, Dipankar Paramanick

Final Decision : Allowed

Judgement

Uday Kumar, J

1. This criminal revision application, filed under Section 482 of the Code of Criminal Procedure, 1973, seeks to quash the criminal proceedings arising from Patuli Police Station Case No. 506/2012. The petitioners, Tapan Kumar Basu @ Tapan Basu and Amit Kumar Basu, who are the uncle-in-law and brother-in-law of the opposite party/complainant, Joyshree Basu, stand accused under Sections 498A, 406, and 34 of the Indian Penal Code, and Sections 3 and 4 of the Dowry Prohibition Act.

2. The genesis of this legal dispute is the marital discord between Anupam Kumar Basu and his wife, Joyshree Basu. The record reveals a telling sequence of events: on May 25, 2012, the husband filed a criminal complaint against his wife and her brother, alleging physical assault. The petitioners were named as witnesses in this case. Precisely one month later, on June 25, 2012, the wife filed the present complaint against her husband and the petitioners, alleging cruelty, dowry demands, and the misappropriation of her "streedhan." The petitioners have categorically denied these allegations, asserting that they are a malicious

"counter-blast" and that they reside in a separate residence from the married couple, a fact supported by the address provided in the complaint itself.

3. The learned counsel for the petitioners argued that the proceedings against his clients were a clear abuse of the legal process. He contended that the allegations were omnibus, baseless, and lacked any specific details of cruelty or dowry demands directly attributable to them. He emphasized that their separate residence rendered the allegations of continuous cruelty under Section 498A IPC inherently improbable. Furthermore, he argued that the charge under Section 406 IPC was unsustainable as no "streedhan" was ever entrusted to his clients.

4. Ms. Tithi Majumdar, the learned amicus curiae for the opposite party countered by asserting that the police investigation had yielded sufficient evidence to file a charge sheet, establishing a prima facie case. He argued that the petitioners' claims of separate residence and false implication were matters of defense to be adjudicated during trial, and that a common intention under Section 34 IPC could link them to the offense.

5. The central question before this Court is whether the continuation of criminal proceedings against the petitioners would amount to an abuse of the legal process, specifically by examining if the allegations, even when taken at face value, establish a prima facie case.

6. This Court has carefully considered the submissions and the factual matrix in light of established legal principles.

7. First, the chronological proximity of the complaints is highly telling. The wife's complaint, filed exactly one month after her husband's, strongly suggests a retaliatory motive. This Court is mindful that the criminal justice system should not be a tool for personal vengeance. To allow a case with such a clear malicious intent to proceed would be a travesty of justice.

8. Second, the allegations against the petitioners are strikingly generic. The complaint fails to attribute a single, concrete act or incident of cruelty to either petitioner. As observed by the Hon'ble Supreme Court in *Preeti Gupta v. State of Jharkhand* (2010), there is a disturbing tendency to indiscriminately implicate a husband's relatives in cases of marital discord. A blanket accusation that lumps all relatives together, without specifying their roles, cannot, and does not, establish a prima facie case.

9. Third, the fact of the petitioners' separate residence is not in dispute. Allegations of continuous physical and mental cruelty under Section 498A IPC are rendered inherently improbable when the accused do not share a matrimonial home with the complainant. This principle was reiterated by the Hon'ble Supreme Court in *Kahkashan Kausar alias Sonam & Ors. v. State of Bihar & Ors.* (2022), which emphasized that the separate residence of in-laws makes allegations of continuous harassment improbable. The prosecution's invocation of common intention under Section 34 IPC is hollow, as there is a clear absence of any

specific overt act on the petitioners' part to support such a claim.

10. Finally, the charge under Section 406 IPC is entirely unsustainable. The essential ingredient of "entrustment" of property is wholly unproven. The complainant has provided no details regarding any specific entrustment of her "streedhan" to the petitioners. In the absence of this foundational element, the charge must fail.

11. The present case fits squarely within the guidelines laid down in *State of Haryana v. Bhajan Lal* (1992), which allows for the quashing of proceedings when the allegations are so improbable or maliciously instituted with an ulterior motive. The patent absence of a direct nexus, combined with the vague nature of the allegations and the strong inference of a retaliatory motive, leads to the inescapable conclusion that the prosecution is not a genuine pursuit of justice.

12. Based on a thorough review of the record, arguments, and relevant legal precedents, this Court finds that the criminal proceedings against the petitioners are a clear abuse of the legal process. To subject them to a trial on such a tenuous basis would be to unnecessarily prolong their harassment and misuse valuable judicial resources.

13. Therefore, in the interest of justice and to prevent a miscarriage of justice, this Court exercises its inherent power under Section 482 of the Cr.P.C. and orders the following:

14. The criminal proceedings in G.R. No. 7854 of 2012, arising out of Patuli Police Station Case No. 506/2012, are quashed and set aside as far as they relate to the petitioners, Tapan Kumar Basu and Amit Kumar Basu.

15. This order, however, shall not affect the ongoing proceedings against the husband, Anupam Kumar Basu, which may proceed in accordance with the law.

16. The revisional application being CRR 2358 of 2016, is, therefore, allowed.

17. There shall be no order as to costs.

18. Interim order/orders, if any, stand vacated.

19. The Trial Court Record (TCR), if any, shall be sent down to the Trial Court, at once.

20. Case Diary, if any, be returned forthwith.

21. Let a copy of this judgment be forthwith transmitted to the concerned Trial Court for information and necessary action.

22. Urgent Photostat certified copy of this judgment, if applied for, be given to the parties on priority basis on compliance of all formalities.