



IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

APPELLATE SIDE

Present:-

HON'BLE JUSTICE CHAITALI CHATTERJEE DAS.

CRR 1577 OF 2023

AVIJIT SINGHA ROY

VS

THE STATE OF WEST BENGAL & ANR.

For the Petitioner : **Mr. Akashdeep Mukherjee, Adv.**
Mr. Soumyadeep Nag, Adv.
Mr. Satyam Pandey, Adv.

For the State : **Mr. Sabir Ahmed, Adv.**
Mr. Bhaskar Hutait, Adv.
Mr. Dhiman Banerjee, Adv.
Mr. Quasi Ezaz Ahmed, Adv.

Last heard on : **19.12.2025**

Judgement on : **24.02.2026**

Uploaded on : **24.02.2026**

1. This is an application under Section 482 of the Code of Criminal Procedure, 1973, for quashing of proceeding and charge sheet no. 267 of 2022 dated 23.9.2022, under Section 500/504/506/509 of the Indian Penal Code, 1860 pending before the Chief Judicial Magistrate at Hooghly.



2. The petitioner is working in Hewlett Packard Enterprise India private Limited (HP) in the post of Enterprise Business Manager Public Sector, North Eastern region of India for last 17 years. A partition suit being Title suit No.9 of 2014 is pending between the present petitioner and Swapan Kumar Singha Roy and others before the First Civil Judge. (Senior) at Chinsurah, Hooghly. A complaint was lodged by the daughter of Swapan Singh Roy against the petitioner by the Opposite Party no. 2 alleging against the present petitioner of constant abuse of torture, psychological trauma, anxiety and also physically threatened him on regular basis. He intentionally insults and verbally abuses the complainant in public sometimes in drunken/intoxicated, state, passing disrespectful and jarring comments to him, and he would be child. Further alleged that the petitioner has deliberately tried tarnishing her dignity and reputation following a constant threat to her and despite the same being informed to her higher authorities they turned a deaf ear to their vexatious complaints which were aimed at damaging her reputation. It was apprehended that she is now scared about the safety of her family, and of her would be child as the hooligans will not stop at anything to gain what they desire by hook or crook. She further alleges of stalking by the petitioner with his personal car and his distasteful comments are a slur on the dignity and chastity of a woman. On the basis of such complaint, Balagarh P.S case no. 264 of 2022 started with the above mentioned charges.
3. The learned Advocate appearing on behalf of the petitioner argued that the complaint is a counter blast to the suit pending between the parties and the dispute is purely civil in nature and only in order to harass the present petitioner, he has been falsely implicated in the case. It is further submitted



that the complaint on the face of it do not constitute any offence and is devoid of any specific date or time of such alleged incident to that extent whereby the complainant is apprehensive about her and her family member's safety and security. It is further submitted that an application for ad interim injunction was preferred by the father of the petitioner, which was allowed with a direction to the parties to maintain status quo till disposal of the suit. After that one M.P case under Section 144 of the Code of Criminal Procedure, 1973 was also filed by the father of the petitioner against Swapan Kumar Singh Roy, the father of the de-facto complainant where from the police report submitted by the concerned police station, it was clearly stated that the dispute between the parties relates to land dispute and civil in nature. A money suit has also been filed by the de-facto complainant against the petitioner and two cousin with a claim of Rs.30,00,000/- from the petitioner and two other cousin as damage towards defamation, which is also pending before the First Court of Civil Judge (Senior division) at Chinsurah Hooghly being Money suit no. 63 of 2022.

4. It is the specific contention of the learned advocate that the date of incident stated mentioned during investigation is out and out false and concocted as the petitioner on that day came to Calcutta from Guwahati and went to Chinsurah Court for the purpose of a bail application in connection with Balagar P.S. case no. 101 of 2022 lodged by the father of the defacto complainant against the Bargadar of the petitioner's land. The learned advocate in this regard relied upon the decision of the Hon'ble Supreme Court



in **Swami Brahmatmananda vs Dr Alok Kumar Maiti and Anr¹**, and **Madhusree Dutta versus State of Karnataka and another²** in support of his contention.

5. Per Contra the learned Advocate, representing the opposite party would submit that the complaint, manifest the ordeal faced by the de-facto complainant being a lady and such onerous situations was created none, but her cousin brother, because of their long-standing family dispute. The situation described in the complaint portrays slow process of mental torture, mitigated on her for which she has become concerned about the safety and security of her and her would be child. It is further contended the petitioner has come post investigation stage when the charge sheet has been submitted, which primarily established the allegations levelled against him and the veracity of the same can be tested only in course of trial. Merely because of non-mentioning of any specific word as ascribed against the de-facto complainant in her written complaint cannot absolve the petitioner from the charges put on him after conclusion of investigation. Further there may be procedural laches on the part of the investigating authority but that cannot inure in favour of the accused persons. The learned advocate has relied upon the decisions reported in, **Kamala Devi Agarwal versus State of West Bengal and others³** where it was held that the High Court was not justified in quashing the proceeding initiated by the appellant against the respondent on ground of pending civil suit in the High Court.

¹ 2024 SC online Cal 2086

² (2025) 3 SCC 612

³ 2001(7) supreme, 627



6. The learned Advocate representing the State on the other hand argued that after completion of investigation, the charge-sheet has been submitted by the I.O. who recorded the statement of various witnesses and hence the allegations levelled were primarily established on completion of investigation. The complainant herself recorded statement under Section 164 Cr.P.C and therefore, sufficient materials are found against the present petitioner for which the trial should be allowed to be commenced. The prosecution relied upon the decision of **Hon'ble Supreme Court in Chilakamarthi Venkateswarlu and Anr. vs State of Andhra Pradesh @Anr passed in criminal appeal no. 1082 of 2019.**
7. Heard the submissions. The factual matrix of the case prima facie discloses, a long-standing rivalry over property dispute between the cousin brother of the de-facto complainant and the present petitioner over which several proceedings are pending before the Civil courts. At the time of lodging of complaint, she was at her advance stage of pregnancy. On perusal of the entire complaint it could be gathered that the complainant is a working lady, serving as an Assistant Commissioner under the Government of West Bengal (WBCS Gr-A) and her husband is as an engineer in a reputed MNC at Hyderabad.
8. It was specifically contended in the written complaint that the present petitioner, along with a few other cousins of them were continuously targeting her in so that she give into their conspiracies and they can satisfy their land last. Their deep disdain and disapproval of her spouse's caste and background have further fuelled their malicious intention and immoral designs and thereby endangering her pregnancy. She was emotionally and mentally distressed



because of the continuous abuse, torture and psychological trauma because of the present petitioner who has also physically threatened her on regular basis. Unfortunately, from the four corners of the entire written complaint, no specific date, time or even the nature of the offence can be found to have been ascribed against the petitioner.

9. The complaint canvassed the emotional distress caused not only by the petitioner but also other persons or other cousin brothers but specifically took the name of the petitioner and did not mention the names of other cousin brothers against whom similar accusations were made. It further transpires that allegation of false accusation against her of stealing money and mobile from local shops were made by those persons and their outrageous lies and determination caused her harm but no reason could be found regarding not taking the names of those persons in the FIR. During investigation, also, the investigating officer failed to collect any information about presence of other persons along with the present petitioner. The case diary, Prima face discloses about some comments made by the petitioner against the de-facto complainant, but not a single word has been spelt to arrive at any conclusion as to whether those were derogatory defamatory or outrageous or not. The statement of the witnesses recorded are the relatives and some local villagers but that too is devoid of any date or months or year or in any specific word, used or allegations levelled against the de-facto complainant by the petitioner . Section 499 of the Indian Penal Code from 1860 defines defamation, which is as follows.



499. Defamation.—

Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter expected, to defame that person.

Explanation 1.— It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.— It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3.— An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4.— No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

10. In order to attract Section 509 of IPC there must be the following ingredients.



1) The accused uttered some words or made some gesture or sound or exhibited any object or intrude upon the privacy of a woman.

2) The accused must have intended that the words are so uttered or the sound or gesture so made or the object so exhibited should be heard or seen respectively by a woman.

3) The accused intended to insult the modesty of the woman.

11. In the decision relied upon by the petitioner in **Swami Brahmatmananda (supra)** the learned Single Bench relied upon the decision of **Subramaniam Swamy versus union of India, Ministry of Law⁴**, where it was held,

‘For the aforesaid purpose, it is imperative to analyse in detail what constitutes the offence of “defamation” as provided under Section 499 of IPC. To constitute the offence, there has to be imputation and it must have made in the manner as provided in the provision with the intention of causing harm or having reason to believe that such imputation will harm the reputation of the person about whom it is made. Causing harm to the reputation of a person is the basis on which the offence is founded and mens rea is a condition precedent to constitute the said offence. The complainant has to show that the accused had intended or known or had reason to believe that the imputation made by him would harm the reputation of the complainant. The criminal offence emphasizes on the intention or harm. Section 44 of IPC defines “injury”. It denotes any harm whatever illegally caused to any person, in body, mind, reputation or property. Thus, the word “injury” encapsulates harm caused to the reputation

⁴ (2016) 7 SC 221



of any person. It also takes into account the harm caused to a person's body and mind. Section 499 provides for harm caused to the reputation of, that is, the complainant'.

In the case of **Madhushree Datta (Supra)** it was observed that the charge-sheet merely stated that Appellant used filthy languages, and the complaint did not specifically attributed any threats or intimidation therefore held ingredients of Section 506 was found not made out prima facie against the accused person. It was indicated that it is not the law that actual words or language should figure in the complaint and one has to read the complaint as a whole and by doing so if the conclusion can be drawn that there has been an intentional insult to provoke any person to break the public peace or to commit any other offence, that is sufficient to bring the complaint within the ambit of Section 504 IPC. It is settled law that a complainant should not reproduce each word or words capable of provoking the other person to commit any other offence. The background facts, circumstances, location, the manner in which they are used, the person or persons to whom they are addressed, the time, the contact of the person who has indulged in such actions are all relevant factors to be borne in mind while examining a complaint lodged for initiating proceedings under Section 504 of Indian Penal Code. therefore, to establish the ingredients of Section 504 IPC, it must be demonstrated, based on the available materials that there was intentional insight with the intent or knowledge that such in salt would provoke either disturbance of the public peace or the commission of any other offence.

12. There is no denial of the fact that merely pendency of a civil suit is cannot render a criminal proceeding otiose but it is to be seen whether the complaint



itself is having any criminal intent or not or whether a civil dispute has been cloaked with criminal intent by filing a complaint.

13. It is well established that the inherent jurisdiction of the High Court can be exercised to quash proceeding in a proper case, either to prevent the abuse of the process of any court or otherwise to secure the ends of justice. It was held in the decision as relied upon by the learned Opposite Party in ***Kamala Devi Agarwal.(Supra)*** , the allegations made against the accused person do not constitute an offence alleged, but there is either no legal evidence used in support of the case or evidence used clearly or manifestly fails to prove the charge. In dealing with this type of cases, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is manifestly and clearly inconsistent with the accusation may or may not support the acquisition in question. In that said decision, the observations passed in ***Nagawwa vs Veeranna Shiva Lingappa Konjalgi***⁵ was taken note of in paragraph 5, where it was observed;

“where the allegations made in the complaint or the statements of the witnesses recorded in support of the same taken at their face value make out absolutely no case against the accused or the complaint does not disclose the essential ingredients of an offence which is alleged against the accused? Where the allegations made in the complaint are patently, absurd and inherently improbable, so that no prudent person can ever reach a conclusion that there is sufficient ground for proceeding against the Where the discretion exercised by the magistrate in issuing process is capricious and arbitrary,

⁵ (1976) 3 SCC 736



having been based either on no evidence or on materials, which are holy irrelevant or in admissible”.

- 14.** In the case of the Supreme Court, as relied upon by the learned prosecution held that the inherent jurisdiction, though wide and expensive, has to be exercised, sparingly, carefully, and with caution, and only when such exercise is justified by the tests specifically laid down in the section itself, that is, to make orders as maybe necessary to give effect to any order under the code, to prevent the abuse of the process of any court or to otherwise secure the ends of justice.
- 15.** It was further held that for interference under section 482, three conditions are to be fulfilled. The injustice which comes to light should be of a grave and not of a trivial character. It should be palpable and clear and not doubtful, and there should exist no other provision of law by which the party aggrieved could have sought relief. The High Court should not in exercise of jurisdiction under Section 482, embark upon an enquiry into whether the evidence is reliable or not, or weather on a reasonable appreciation of the evidence, the allegations are not sustainable, for this is the function of the trial judge.
- 16.** In the light of the law as laid down and interpreted by the various judicial authorities and the factual matrix of this case, this court do not find materials on the face of the complaint in order to constitute an offence under the sections as alleged on the face of the complaint as well as from the evidence collected during investigation accordingly this revisional application is liable to be allowed.
- 17.** In the case of ***State of Haryana v. Bhajanal 1992 Supp (1) 335*** the Hon'ble Supreme Court laid down the guidelines for exercise of power under



Section 432 and in clause (1) it was mentioned that where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their security do not constitute prima facie any offence or make a case against the accuse the High Court can invoke the inherent power to quash the proceeding.

18. Hence this revisional application stands allowed. The proceeding pending before the Learned Magistrate stands quashed .

19. No order as to costs .

20. Urgent Photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

[CHAITALI CHATTERJEE (DAS), J.]

