IN THE HIGH COURT AT CALCUTTA

CRIMINAL REVISIONAL JURISDICTION

Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. No. 409 of 2025

TANMOY ROY

Versus

THE STATE OF WEST BENGAL & ANR.

For the Petitioner	:	Mr. Sabir Ahmed, Adv. Mr. Partha Sarathi Sarkar, Adv. Mr. Dhiman Banerjee, Adv. Mr. Quazi Ezaz Ahmed, Adv.
For the State	:	Mr. Kallol Mondal, Ld. PP Mr. Pawan Kumar Gupta, Adv. Mr. Arijit Bhusan Bagchi, Adv.
Heard on	:	22.09.2026
Judgment on	:	16.11.2026
Uploaded on	:	16.11.2026

Ajay Kumar Gupta, J.:-

1. The petitioner filed this instant Criminal Revisional application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') corresponding to Section 528 read with Section 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (in

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short, 'BNSS') read with Article 227 of the Constitution of India seeking quashing of the proceeding being G.R. Case No. 2275 of 2020 arising out of Bagnan P.S. Case No. 431 of 2020 dated December 13, 2020 under Sections 498A/34 of the Indian Penal Code, 1860 including the Charge Sheet being C.S. No. 205/2021 dated 22.07.2021 currently pending for adjudication before the Court of the Learned Additional Chief Judicial Magistrate, Uluberia, Howrah.

2. The facts leading to the filing of this application are that the petitioner and opposite party No. 2/de facto complainant were married on March 2, 2017, as per Hindu Rites and Customs; subsequently, one male child was born out of the said wedlock. The opposite party no. 2 has alleged, *inter alia*, that a few months after the marriage, the petitioner and in-laws subjected her to physical and mental torture and even drove her out with her minor son.

3. There were frequent quarrels between the complainant and her mother-in-law and sister-in-law, and when the complainant called her husband for redressal, who resides outside West Bengal, he did not pick up the phone. When the complainant asked her mother-in-law about the date of her husband's return, she never answered properly. During that period, the complainant worked as a para teacher in a primary school and commuted to work from her matrimonial home.

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4. It was further alleged that the mother-in-law and sister-in-law always compelled her to do all household work in her matrimonial house. Between 2019 and 2020, the complainant left her matrimonial house several times. They did not even allow her to access the documents necessary for the purpose of applying for her son's ration card. They always put a padlock on the room of the complainant and did not allow her to enter the matrimonial home. The Petitioner allegedly continued to ignore the complainant's phone calls whenever she tried to contact him.

5. Being aggrieved by the actions of her husband and in-laws, the petitioner's wife lodged the complaint before the Bagnan Police Station. On the basis of the written complaint, Bagnan PS registered the aforesaid case against the petitioner and others, and initiated investigation.

6. The opposite party no. 2 has also lodged another case, under the provisions of the Protection of Women from Domestic Violence Act, 2005, being Misc. Case No. 17 of 2021.

7. The petitioner contended that the opposite party no. 2 is a quarrelsome lady and she always harassed the petitioner's mother by forcing her to meet her demands, and being aggrieved by the continuous harassment by the opposite party no. 2, the mother of the petitioner was compelled to file an application under Section 12 of the

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PWDV Act, 2005 against the opposite party no. 2 before the Learned Additional Chief Judicial Magistrate, Uluberia. The said application has been registered as Misc. Case No. 82 of 2022.

8. After culmination of investigation, the investigating authority submitted a Charge-Sheet, being Charge-Sheet No. 205 of 2021, dated July 22, 2021, under Sections 498A/34 of Indian Penal Code, 1860, against the petitioner herein and 2 (two) other accused persons namely, mother-in-law and sister-in-law before the Court of Learned Additional Chief Judicial Magistrate, Uluberia, Howrah, and the Learned Court was pleased to take cognizance of the Charge-Sheet being Chargesheet No. 205/2021 dated 22.07.2021 under Section 498A/34 of the Indian Penal Code, 1860.

9. Assailing the continuance of proceeding being G.R. Case No. 2275 of 2020, arising out of Bagnan Police Station Case No. 431 of 2020, dated December 13, 2020, under Section 498A/34 of the Indian Penal Code, 1860, pending for adjudication before the Court of Learned Additional Chief Judicial Magistrate, Uluberia, Howrah, the mother of the petitioner herein, namely Indrani Roy had filed an application under Section 482 of the Code of Criminal Procedure, 1973 being CRR No. 1195 of 2022 (Indrani Roy Vs The State of West Bengal & Anr) before this Hon'ble Court. During pendency of the application, the co-ordinate bench of this High Court refers the

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dispute between Tanmoy Roy and Paromita Roy (nee Das) to mediation prior to any further proceeding, both in the revisional court as well as in the trial court. The Learned Additional Chief Judicial Magistrate, Uluberia, was further directed not to proceed with the case being G.R. Case No. 2275 of 2020, arising out of Bagnan Police Station Case No. 431 of 2020, dated December 13, 2020, under Section 498A/34 of the Indian Penal Code, 1860, till 23.08.2022. The said interim order was extended from time to time and finally by judgment and order dated 08.01.2025, but there was no fruitful result. Finally, the matter was heard by another Co-ordinate Bench and decided the case in favour the mother-in-law by quashing the aforesaid proceeding in so far as the mother-in- law concerned.

10. In a similar manner, the sister of the petitioner herein, namely Urmimala Mandal, also filed an application under Section 482 of the Code of Criminal Procedure, 1973 before this Hon'ble Court challenging the aforesaid proceedings and the same was registered as CRR No. 2232 of 2022 (Urmimala Mandal Vs. The State of West Bengal & Anr.). The said CRR No. 2232 of 2022 was also allowed by quashing the proceedings in respect of Urmimala Mandal in the said application.

11. In the judgments, the Hon'ble court was pleased to observe that from the materials available in the case diary in connection with the

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aforesaid GR Case, the allegations are found to be general and omnibus in nature and the same lacks the ingredients of the offences alleged, in prima facie manner and upon observing the same the Hon'ble Bench was pleased to quash the proceedings in respect of the two accused persons respectively.

12. The petitioner contended that a very pertinent aspect was not considered by the Investigating Officer while filing the charge sheet against the petitioner. The petitioner, six months before the date of filing of the FIR, had enrolled himself in an Institute in Haridwar to pursue his PhD studies and was living there. So, the trigger for filing the FIR from the aspect of the opposite party no. 2 is suspicious, because the main culprit complained of was, at that point in time, not available in Kolkata but at Haridwar for pursuing his higher studies. The opposite party No. 2, during the relevant period, used to have WhatsApp communication with the petitioner and even from 05/12/2020 onwards, the petitioner was not in Kolkata. However, the complaint was filed on 13/12/2020, and therefore the veracity of the complaint against the petitioner needs to be verified very carefully since the charge sheet has been submitted mechanically and in a perfunctory manner; as such, the case of the other accused persons did not sustain in the eyes of law and was ultimately quashed by co-ordinate bench of this court.

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13. It is found that the petitioner was not living with the complainant on the dates of the alleged incidents of torture. The only allegation made against the petitioner is his failure to attend calls of the complainant. The entire allegation is made against the in-laws of the complainant, against whom the proceedings have already been quashed by this Hon'ble Court. As such, continuance of the instant proceeding against the present petitioner in the absence of materials will be an abuse of the process of law and the same should be nipped in the bud as such the instant application.

14. Mr. Sabir Ahmed, learned counsel representing the petitioner submitted that the petitioner is innocent and in no manner involved in any of the allegation levelled against him. In the Misc. Case filed under Section 12 of the DV Act, the complainant has narrated a completely different story of torture, and there are major contradictions relating to the description of alleged torture upon her by her in-laws. This shows that the complaint has been lodged falsely and containing vexatious allegations.

15. The complaint lodged by the Opposite Party No. 2 against the Petitioner only to wreak vengeance against him. The instant proceeding has been initiated against the Petitioner without following the ratio laid down by the Hon'ble Apex Court in ***Lalita Kumari v. Government of Uttar Pradesh*** reported in ***(2014) 2 SCC 1*** and

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without making any preliminary inquiry, the police authorities have proceeded straightaway to lodge an FIR against the petitioner without any investigation/preliminary inquiry. The instant case, therefore, cannot stand in the eye of law and the same is liable to be quashed. Furthermore, in a factually similar case being ***Mainak Ranjan Bakshi and others versus State of West Bengal and Another*** **(being CRR No. 1374 of 2020)**, a coordinate bench of this Hon'ble Court has been of the view that the investigating authority should hold a preliminary enquiry after giving notice to the petitioner and his family members and that initiation of investigation will depend upon the result of the preliminary enquiry made by the Investigating Officer. Similarly, in ***Varun Goenka versus State of West Bengal & Anr*** **being CRR No. 1383 of 2021** and in ***Rahul Kumar Shaw & Ors versus State of West Bengal & Anr,*** **being CRR No. 1534 of 2021**, another coordinate bench of this Hon'ble Court has taken a similar view holding that "the State has failed to justify the registration of the F.I.R without conducting the preliminary enquiry in both the cases" and in various other cases as well decided by this Hon'ble High Court, the same proposition of law as discussed above has been laid down. The facts of the instant case are also similar to the aforementioned cases wherein this Hon'ble Court was of the view

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that a preliminary enquiry should be conducted in order to verify the allegations levelled by the wife against the Petitioner/husband.

16. It was further submitted that the opposite party no. 2 does not disclose any factum of commission of cruelty by the petitioner upon the complainant. The fact which requires consideration in the complaint is that no demand for dowry was made by the petitioner and there is no instance of such an action on the part of the petitioner or his relatives which would drive the complainant to suicide or cause mental or physical harassment. Hence, on the basis of the complaint, no proceedings can be carried out against the petitioner.

17. The whole case is based on false, frivolous and omnibus allegations against the Petitioner to fulfill her ulterior motives. Although the petitioner has taken care of each and every need of the opposite party no. 2 by all possible means, despite such facts the Opposite party no.2 lodged the instant complaint with wreak vengeance. The petitioner was paying the monthly maintenance amount to Rs. 6,000/- regularly through Bank accounts and the said fact has been admitted by the Opposite party herself. Since registration of the instant case is the result of matrimonial dispute between the Petitioner and the Opposite Party No. 2, in such cases the investigating authority must show due care and caution in registering

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the offence. They are required to undertake preliminary enquiry, and then, after being satisfied with the grounds that a cognizable offence has been made out, the police authorities should initiate an FIR. In the instant case, such mandatory criterion has not been fulfilled and, as such, the proceeding is liable to be set aside.

18. It was further contended that she has not disclosed any specific incident of physical or mental torture. No date, time or particular incident was indicated against the petitioner to drive her to commit suicide, or that the family members have subjected her to harassment to meet some demand; therefore, the complaint does not constitute the fact of cruelty. Hence, under the provisions of the statute, the complaint does not constitute the factum of 'cruelty' as mandated under the statute. Furthermore, the allegation against the petitioner was that he did not pick her phone calls and did not even call back to ascertain the situation of the family members. That action on the part of the petitioner, while he was outside West Bengal for the purpose of pursuing higher studies, would not constitute offence under Section 498A/34 of the Indian Penal Code, therefore, the complaint and all subsequent proceedings need to be quashed and/or set aside to secure and prevent the ends of justice.

19. The petitioner further contended that the entire complaint dated 13.12.2020 made by the opposite party no.2 is false and fabricated.

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This fact shall stand established from the false allegation made in the complaint that the petitioner did not pay for the medical expenses of the opposite party no. 2 during her pregnancy and during the birth of the child. This is absolutely false because the petitioner had paid for all the medical expenses during and after the birth of the child, which is proved by the medical bills and records, and further she herself admitted that the petitioner was sending money continuously as per his capacity. She herself admits in the complaint that she was a working lady and had her own income. It is submitted herein that the complaint does not disclose the basic two ingredients so as to constitute an offence U/S 498A. There is no allegation that the opposite party No. 2 was driven to commit suicide and that there was any demand or harassment for dowry. So, the complaint does not disclose any offence of U/S 498A.

20. The Petitioner submits that no ingredients of the sections as alleged in the instant case have been made out against him and his family members; as such, a co-ordinate bench of this court allowed two revisional applications filed by the mother-in-law and sister-in-law of the opposite party no.2 and quashed the proceeding against them, observing therein that no even prima facie case has been made against them, whereas they were residing in the matrimonial home. The allegations made in the First Information Report are so absurd

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and inherently improbable on the basis of the same that no prudent man can ever reach the just conclusion that there is sufficient ground for proceeding against the present petitioner in any manner.

21. The petitioner submits that the instant proceeding as initiated against the present petitioner is absolutely baseless, frivolous and displays a clear misuse of the provisions of criminal law and fails to disclose any commission of offence by him accordingly; further, continuance of the aforesaid proceeding would be clear abuse of process of law. Therefore, the petitioner humbly submits that unless the said proceeding is quashed by this Hon'ble Court by invoking its inherent power under Section 482 of the Code of Criminal Procedure, 1973, the petitioner shall suffer irreparable loss and injury and the same cannot be adequately compensated in any manner.

22. Despite service of notice, none represented the opposite party no. 2. Neither accommodation has ever been sought for.

23. Learned counsel appearing on behalf of the State produced the case diary and memo of evidence and further vehemently opposed the prayer of the petitioner and further submitted that during investigation, statements of the witnesses were recorded under Section 161 of Cr.P.C. Material collected during investigation establishes a prima facie case against the petitioner. This Court cannot embark upon such evidence at this stage. The petitioner must

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have to face trial and opportunity needs to be given to the victim and other witnesses to uncover the real truth. Finally, learned counsel prays for dismissal of the application.

24. Heard the submission and arguments advanced by the learned counsels for the respective parties and upon perusal of the case record including the case diary produced by the State, this Court finds the present proceeding has been initiated against the mother-in-law, Sister-in law and the husband, petitioner herein, who is only the petitioner herein against whom a case registered under Section 498A/34 of the Indian Penal Code and subsequently charge sheet has been submitted against the accused persons including the petitioner.

25. The proceeding against the mother-in-law and Sister-in-law of the opposite No.2 have been quashed by the co-ordinate bench of this court in two different revisional applications being CRR No.1195 of 2022 and CRR No.2232 of 2022 respectively filed by them. The observation of the co-ordinate bench of this court was specific and solid that the allegations against them were vague and general in nature. No ingredients, whatsoever, were found to constitute the offence punishable under section 498A/34 of the Indian Penal Code.

26. From the perusal of the written complaint, it is revealed that she alleged allegations mostly against the mother-in-law and Sister-in-

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law. However, the court found it vague, general in nature and not fulfilling the ingredients required even prima facie. This court is conscious that the present petitioner is the husband. Whether any allegation attributed against him is required to be assessed by this court based on materials available on the written complaint and case diary. She had alleged that she was tortured physically and mentally by the petitioner, but she has not disclosed the date, time and manner of physical torture. The allegation of physically and mentally apparently vague and general in nature. If the allegation is vague and general and bald, such an allegation would not be sustainable in law. It is also not mentioned what was the reason for such torture by the accused persons. Particularly, the petitioner was out of station for his study purposes on the date of lodging the complaint or even prior to lodging the complaint. It is revealed from the written complaint that her main complaint was that he did not pick up her phone calls, but it was also not disclosed how many occasions she called him over the phone. He might have been busy in his studies or any other urgent work. Not picking of phone calls of wife would no stretch of imagination, constitute cruelty as define in the Cr.P.C.

27. It would be apposite to quote section 498A of the IPC and "cruelty" described therein for ready reference and convenience for proper, fair and effective disposal of this case as under:

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> ***"498A. Husband or relative of husband of a woman subjecting her to cruelty.—***
>
> *Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.*
>
> *Explanation.— For the purpose of this section, "cruelty" means—*
>
> *(a)any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or*
>
> *(b)harassment of the woman where such harassment is with a view to coercing 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."*

28. Upon bare perusal of aforesaid provision, this court does not find, not picking up phone calls of wife or response could have likely to drive such woman to commit suicide or to cause grave injury or danger to her life, limb or health whether mental or physical.

29. The offence, therefore, requires the complainant to be a married woman, subjected to cruelty by her husband or his relatives, and that such cruelty shall fall within clauses (a) or (b) of the Explanation. In the present case, no demand for dowry or any property or valuable security is alleged against the petitioner, so clause (b) is not attracted. The case rests on clause (a), which requires wilful conduct

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of a nature likely to drive the woman to suicide or to cause grave injury or danger to her life, limb or health.

30. The allegation of physical and mental torture by the petitioner is bald. The complainant gives no date, time, place or manner of any act of torture and no reason for it, and attributes no particular incident to him. Such an allegation is vague and general and cannot, without more, constitute cruelty. The complaint itself records that the petitioner paid Rs. 6,000/- into her account upon her requests till June 2020, which is inconsistent with the picture of neglect or harassment by him.

31. The sole specific grievance against the petitioner was that he did not answer her calls. The Court finds that this does not amount to cruelty, for the following reasons.

a. The complaint does not state how many calls were made, on which dates, or for what urgent purpose. It does not say that the complainant was ever in danger, ill or in need of urgent help, or that the petitioner knew about it and deliberately turned away.

b. The complaint itself shows that the petitioner was not at the matrimonial home on maximum time: the complainant says she asked her mother-in-law when he would return. That he was away from home, and that he was pursuing higher studies outside West Bengal, is the natural explanation for a call going

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unanswered. A student may be in class, in an examination, or otherwise engaged or out of reach. A call left unreceived is, by itself, an omission and not an act of wilful conduct.

c. Even if the calls went unanswered on every occasion as alleged, such conduct could be a cause of marital discontent, but it cannot be said to be of a nature likely to drive a woman to suicide or to cause grave injury or danger to her life, limb or health, whether mental or physical. Clause (a) of the Explanation is not satisfied, and no dowry-related harassment is alleged to bring clause (b) into play.

d. The petitioner was not present when the quarrels with the mother-in-law and sister-in-law are alleged to have occurred, and no act of his in aid of them is described. The invocation of Section 34 IPC therefore has no foundation, the common intention being neither alleged nor disclosed.

32. Learned counsel for the petitioner contended that the FIR was registered without a preliminary inquiry, relying on ***Lalita Kumari v. Government of Uttar Pradesh (Supra)***, wherein it was held that registration of an FIR is mandatory where the information discloses a cognizable offence, while a preliminary inquiry is permissible in certain categories of cases, including matrimonial disputes, to ascertain whether a cognizable offence is disclosed. It, however, does

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not render an FIR bad merely because no preliminary inquiry preceded it. Investigation has been completed and a charge sheet filed, and the Court need not rest its decision on the absence of a preliminary inquiry; it does not do so. The proceeding fails on the want of ingredients of the offence, as held above.

33. The statements recorded under section 161 of the witnesses also not support the allegation of the petitioner as such allegation made in the written complaint is found ingenuine and appears wholly baseless.

34. The Court has not relied on the petitioner's other contentions, which are matters of defence: the divergence between the complaint and the statements in Misc. Case No. 17 of 2021, the counter-application in Misc. Case No. 82 of 2022, the payment of medical expenses, and the plea of absence at Haridwar from 05.12.2020 or earlier. Nothing in this order touches those proceedings or expresses any view on them.

35. For the reasons stated, taking the allegations in the complaint and the materials in the case diary at their face value, no offence under Section 498A/34 IPC is disclosed against the petitioner. The case falls within categories (1) and (3) of ***State of Haryana v. Bhajan Lal*** reported in ***1992 Supp (1) SCC 335***, as the allegations do not constitute an offence even if taken at face value, and the uncontroverted allegations and evidence collected do not disclose the commission of any offence. The proceeding against the mother-in-law

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and sister-in-law have been quashed on the same general allegations; therefore, allowing a similar proceeding to continue against the husband alone would be an abuse of the process of the Court and would result in a miscarriage of justice.

36. Accordingly, **CRR No. 409 of 2025** is, thus, **allowed**. Connected applications, if any, are also, thus, disposed of.

37. Consequently, proceeding being G.R. Case No. 2275 of 2020 arising out of Bagnan P.S. Case No. 431 of 2020 dated December 13, 2020 under Sections 498A/34 of the Indian Penal Code, 1860 including the Charge Sheet being C.S. No. 205/2021 dated 22.07.2021 currently pending for adjudication before the Court of the Learned Additional Chief Judicial Magistrate, Uluberia, Howrah is hereby quashed and all orders passed therein in connection with the said proceeding are hereby set aside insofar as the present petitioner is concerned.

38. Case Diary, if any, be returned to the learned counsel for the State.

39. Interim order, if any, stands vacated.

40. Let a copy of this judgment and order be communicated to the Learned Court below for information.

41. All parties shall act in terms of the copy of this judgment duly downloaded from the official website of this Court.

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42. Urgent Photostat certified copy of this Judgment, if applied for, be given to the parties, as expeditiously, upon compliance of all legal and necessary formalities.

(Ajay Kumar Gupta, J.)

(P.A.)

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