IN THE HIGH COURT AT CALCUTTA

CRIMINAL REVISIONAL JURISDICTION

Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. 2329 of 2022

Dr. Hiralal Konar & Anr.

Versus

The State of West Bengal and Anr.

For the Petitioners	:	Mr. Sekhar Basu, Ld. Sr. Adv. Mr. Soubhik Mitter, Adv. Ms. Rajnandini Das, Adv. Mr. Karan Bapuli, Adv.
For the Opposite Party No. 2	:	Mr. Sujoy Sarkar, Adv. Mr. Prasun Mukherjee, Adv. Mr. Kanchan Roy, Adv.
For the State	:	Ms. Anasuya Sinha, Adv. Ms. Rajashree Tah, Adv.
Heard on	:	08.08.2025
Judgment on	:	03.09.2025

Ajay Kumar Gupta, J:

1. This instant Criminal Revisional application has been preferred by two accused persons under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973 (in short, 'CrPC') seeking quashing of the proceedings being Special Case No. 9/2022 arising out of Patuli P.S. Case No. 52/2022 dated 15.03.2022 under Sections 498A/406/506/34 of the Indian Penal Code, 1860, Sections 3/4 of the Dowry Prohibition Act, 1961 read with Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and Section 3(1)(u) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (corresponding to ACGR No. 1052/2022), now pending before the Court of the Learned District and Sessions Judge, 1st Court, Alipore, South 24 Parganas .The petitioner further challenges the order dated 12.05.2022 passed by the Learned District and Sessions Judge, 1st Court, Alipore, South 24 Parganas whereby Trial Court took cognizance of the offences as alleged.

2. The material facts, in brief are that petitioner no. 1 is a registered medical practitioner holding an MS in Anatomy and a Diploma in Radiotherapy. He retired upon superannuation from the West Bengal Health Services; his last posting was being at the Medical College and Hospital, Kolkata. At present, he is engaged on a

contractual basis in the Department of Paediatric Surgery at KPC Medical College and Hospital, Jadavpur. Petitioner no. 2 is a geologist, presently serving with the Geological Survey of India.

3. The opposite party no. 2 being the wife of petitioner no. 2 lodged a written complaint with the Officer-in-Charge of Patuli Police Station alleging in details as under: -

> ***3a.*** *On 21.04.2011, the marriage between the petitioner No. 2 and the opposite party No. 2 got registered. On 26.01.2014, the opposite party No. 2 got married to the petitioner No. 2 as per Hindu Rites and Customs. After marriage, the opposite party No. 2 lived with her husband (i.e. the petitioner No. 2) at the matrimonial house in Beliaghata. On 19.12.2019, the couple was blessed with a daughter.*
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> ***3b.*** *From the beginning of their conjugal life, the opposite party No. 2 realized that the petitioner No. 2 was an impatient, aggressive, unsupportive, cruel, uncaring, insensitive, critical, demanding, dominating, self-obsessed, proud, and unromantic person. The petitioners and Tanuja Konar (i.e. the mother of petitioner No. 2) used to verbally abuse the opposite party No. 2. The petitioner No. 1 and Tanuja Konar also used to criticize the physical appearance of the opposite party No. 2, called her ugly, short, fat, dark-complexioned, and uncultured and they*

also mocked her for being a member of a lower class and lower caste. Tanuja Konar used to publicly humiliate and mock the opposite party No. 2 for being a member of the scheduled caste. The petitioner No. 2 used to make fun of the culinary skills of the opposite party No. 2 in front of his colleagues. He was also embarrassed to introduce her to his friends and colleagues.

3c. *One day, the opposite party No. 2 brought a blanket for herself and used it at night. That night, the petitioner No. 2 assaulted her and admonished her for bringing unclean things to the house. She was also called a liar.*

3d. *In the year 2017, the petitioner No. 2 was transferred to Kolkata. The couple jointly purchased an apartment in Kolkata. The opposite party No. 2 purchased all the furniture and fixtures at the said apartment and the petitioner No. 2 did not bear the expenses for the same. One week after the couple moved to their new apartment, the petitioner No. 2 assaulted the opposite party No. 2 and, also, tried to strangulate her.*

3e. *The opposite party No. 2 has been rearing up her daughter all by herself and she has received no support or aide from her in-laws. Tanuja Konar used to force the opposite party No. 2 to feed the child even when she was not hungry.*

She also never allowed any domestic help into the house. The petitioner No. 2 used to force the opposite party No. 2 to feed the child in front of the petitioner No. 1.

3f. *During the lockdown, which was imposed as a result of the outbreak of COVID-19 pandemic, the opposite party No. 2 was restricted to her bedroom without sufficient food and she was barred from going to the toilet for long hours as there was nobody to keep an eye on the child.*

3g. *Once the opposite party No. 2 suffered from diarrhea for nineteen days at a stretch, but the petitioner No. 2 refused to take her to the doctor or buy her medicines. The petitioner No. 2 never provided for the essential articles for the baby and forced the opposite party No. 2 to purchase articles for the baby on the digital platform. The petitioner No. 2 yelled at night in front of the baby when she was only four months old.*

3h. *In November, 2020, the petitioner No. 2 had an altercation with the opposite party No. 2 and assaulted her mercilessly. The opposite party No. 2, by trying to escape from her husband's clutches, locked herself up with her daughter in a separate room. However, the petitioner No. 2 broke the lock and entered that room with a kitchen knife. When the opposite party No. 2 shouted to raise an alarm, she was threatened*

with dire consequences. In such circumstance, the opposite party No. 2 and her daughter got hurt.

3i. *The petitioners along with Tanuja Konar abused the opposite party No. 2 physically, sexually, verbally, economically, and emotionally. They also made unlawful demand for dowry and pressurized her to pay the monthly instalment/EMI for repaying the loan, which they had availed of to purchase the apartment. The petitioners and Tanuja Konar restrained the opposite party No. 2 from accessing the apartment, but forced her to repay the loan.*

3j. *The petitioners along with Tanuja Konar insulted the opposite party No. 2 and her father for not bringing adequate dowry. They also insulted her for not giving birth to a male child and restrained her from going to work. The petitioner No. 2 sent abusive messages from the phone of the opposite party No. 2 (9445585235) to his own phone (9445585233) and, subsequently, threatened to use the screenshot of such messages to implicate the opposite party No. 2 in false cases. The opposite party No. 2 and her child were not provided with sufficient food, clothes, and medicines and she was compelled to purchase them online during the lockdown.*

3k. *The petitioner No. 2 strangulated the opposite party No. 2 and has also beaten up the child, as a result of which, the opposite party No. 2 suffered from mental trauma. On 14.07.2017, the petitioner No. 2 assaulted the opposite party No. 2, due to which, she suffered severe injuries and had to be treated at the Army Hospital. The opposite party No. 2 lodged a complaint with police, alleging domestic violence.*

3l. *During the Durga Puja festival in October, 2021, the opposite party No. 2 allowed the petitioner No. 2 to meet their daughter. Thereafter, the petitioner No. 2 started visiting their daughter daily. Initially, he was affectionate towards the daughter, but, subsequently, the petitioner No. 2 started to verbally abuse the opposite party No. 2 and her father in front of the minor child. The petitioner No. 2 also created a scene in front of the house of the opposite party No. 2 with the intention to harm the reputation of the opposite party No. 2 and her family in the eyes of their neighbours. The minor girl got traumatized and refused to see her father (i.e. the petitioner No. 2). The opposite party No. 2 lodged a complaint with Patuli Police Station and the police assured to take strict action against the petitioner No. 2.*

3m. *On 07.03.2022, when the opposite party No. 2 returned home from work, she came to learn that the petitioner No. 2 had taken out their daughter for an evening tour. Subsequently, since their daughter started crying, the petitioner No. 2 brought her back home. The child felt uncomfortable round her father. The petitioner No. 2 applied criminal force to take away the daughter from the opposite party No. 2. The opposite party No. 2 is apprehensive, that the petitioner No. 2 may cause harm to their daughter in future.*

4. Pursuant to the aforesaid complaint, Patuli P.S. Case No. 52/2022 dated 15.03.2022 under Sections 498A/406/506/34 of the Indian Penal Code, 1860, Sections 3/4 of the Dowry Prohibition Act, 1961 read with Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and Section 3(1)(u) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 has been registered against the petitioners and Tanuja Konar for investigation.

5. Upon culmination of investigation, the Investigating Officer submitted Charge Sheet being Charge Sheet No. 56/2022 dated 11.05.2022 against the petitioners and the said Tanuja Konar under the aforesaid provision of law.

6. The petitioners contend that upon receipt of the charge sheet, the Learned Judge took cognizance of the offences mechanically, without adverting to the materials available therein or complying with the mandatory legal requirements. It is urged that the petitioners are innocent, and the allegations are wholly false, frivolous and concocted, instituted solely to harass them for collateral gain. Hence, the present application.

7. Mr. Basu, learned senior counsel appearing on behalf of the petitioners drew attention to this court that the Learned Additional District and Sessions Judge, 1st Court, Alipore violates the Rule 183 of the Calcutta High Court Criminal (Subordinate Court) Rules, 1985. It mandates that all the order that requires the exercise of judicial discretion or recording of the final orders, should mandatorily be recorded by the Learned Magistrate in his own hand written or typed by him and other orders may be recorded under his discretion by the Bench Clerk.

8. The next limb of argument was that the allegations are vague and omnibus in nature and no ingredients are fulfilled either in FIR or in Charge Sheet against the petitioners. The whole case is based on concocted story is liable to be quashed to prevent the gross abuse of process of law. The Investigating Officer did not conduct the case in proper manner and the same was conducted in lackadaisical and

mechanical manner and submitted charge sheet without any sufficient materials to establish even prima facie case.

9. It was further submitted that in order to invoke Section 3 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, it is not sufficient that the victim belongs to SC or ST. It ought to show that the accused persons committed offence by humiliation or mock in public view. The alleged incident narrated in the FIR or even statement recorded under Section 161 of the CrPC are basically within the premises of the matrimonial house and the same is between the husband, in-laws and wife only.

10. Finally, learned senior counsel submitted that under Section 7 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, State Government or DG of Police or SP has to appoint Investigating Officer to investigate the case when there is an allegation of humiliation or atrocities committed upon the Scheduled Cases or Scheduled Tribes. However, in the present case, Assistant Commissioner of Police conducted investigation without any indication that he was appointed as IO in this case by the State Government. Therefore, this case, if allowed to be continued, it would be an abuse of process of law and the accused persons being the highly qualified doctor and government employees would suffer

irreparable loss and injury and highly prejudice. He prays for quashing of the proceedings.

11. Per contra, learned counsel for the opposite party no. 2/complainant strenuously opposed the petition and submitted that the complaint lodged on 15 March 2022 clearly disclosed cognisable offences committed by the petitioners and the said Tanuja Konar, mother-in-law, in furtherance of common intention. It is alleged that the complainant was subjected to physical and mental cruelty, misappropriation of her stridhan articles, demands for dowry, attempt to strangulate her, and threats of dire consequences. It is further alleged that her husband and in-laws inflicted cruelty upon her minor child and wilfully humiliated her in public. On the basis of these allegations, the case was rightly registered. Learned counsel urged that the FIR as well as materials collected in the course of investigation establish a clear prima facie case, and that the Learned Judge rightly took cognizance. The present application, it was argued, deserves to be dismissed in limine.

12. Learned counsel appearing on behalf of the State produced the case diary and vehemently opposed the prayer of the petitioners and further submitted that during investigation, statements of the victim, her parents and other neighbour were recorded under Section 161 of CrPC. Statement of the victim was also recorded under Section

164 of CrPC. Material collected during investigation are establishing prima facie case against petitioners. This Court cannot embark upon such evidences at this stage. The petitioner must 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.

13. Heard the 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 father-in-law (Petitioner no. 1) and husband (Petitioner no. 2) and mother-in-law who is not the petitioner herein. From the perusal of written complaint, it reveals she alleged various allegations in details against the entire accused person from the very beginning of their conjugal life. Some of them narrated herein below with date and year, some are without date and year. She did not mention any time and place. Those are set out herein under at the cost of repetition for proper and effective analysis.

i). From the beginning of their conjugal life, OP2 realized P-2 was an impatient, aggressive, unsupportive, cruel, uncaring, insensitive, critical, demanding, self obsessed, proud and unromantic person.

ii). Petitioners and Tanuja Konar (mother of Petitioner no. 2) verbally abused OP2. They criticized the physical appearance of OP2 and called her ugly, short, fat, dark-complexioned, and uncultured and they also mocked her for being a member of a lower class and lower caste.

iii). Tanuja Konar used to publicly humiliate and mock OP2 for being a member of the scheduled caste.

iv). Petitioner no. 2 used to make fun of the culinary skills of OP2 in front of his colleagues. He was also embarrassed to introduce her to his friends and colleagues.

v). Petitioner no. 2 assaulted OP2 for bringing a blanket for herself. She was admonished for bringing unclean things to the house. She was also called a liar.

vi). Tanuja Konar used to force OP2 to feed the child even when she was not hungry. She also never allowed any domestic help into the house.

vii). Petitioner no. 2 used to force OP2 to feed the child in front of Petitioner no. 1.

viii). During lockdown, OP2 was restricted to her bedroom without sufficient food, and was barred from using the washroom for long hours in order for her to keep an eye on the child.

ix). Once OP2 suffered from diarrhea for 19 days, but P2 refused to take her to the doctor or buy her medicines.

x). Petitioner no. 2 never provided the essential articles for the baby and forced OP2 to buy articles for the baby on the digital platform. Petitioner no. 2 yelled at night in front of the baby when she was only 4 months old.

xi). In November 2020, Petitioner no. 2 had an altercation with OP2 and assaulted her mercilessly. OP2 tried to escape from her husband's clutches and locked herself up with her daughter in a separate room. However, Petitioner no. 2 broke the lock and entered that room with a kitchen knife. When OP2 shouted to raise an alarm, she was threatened with dire consequences. OP2 and her daughter got hurt.

xii). Petitioners and Tanuja Konar abused OP2 physically, sexually, verbally, economically. and emotionally. They also made unlawful demand for dowry and pressurized her to pay the monthly installment/EMI for repaying the loan, which they had availed of to purchase the apartment. They restrained OP2 from accessing the apartment but forced her to repay the loan.

xiii). Petitioners along with Tanuja Konar insulted OP2 and her father for not bringing adequate dowry. They also insulted

her for not giving birth to a male child and restrained her from going to work.

xiv). OP2 and her child were not provided with sufficient food, clothes, and medicines and she was compelled to purchase them online during the lockdown.

xv). Petitioner no. 2 has strangulated OP2 and has also beaten up the child and resultantly OP2 suffered from mental trauma

xvi). On 14.07.2017, P2 assaulted OP2, due to which, she suffered severe injuries and had to be treated at the Army Hospital.

xvii). OP2 is apprehensive that P2 may cause harm to their daughter in future.

14. From the aforesaid allegations, it transpired only two particular date, are mentioned, **First,** On 14.07.2017, when P-2 allegedly assaulted OP2 and she suffered severe injuries and had treated at the Army hospital and **Second,** in November 2020, when petitioner no. 2 had an altercation with OP2 and assaulted her mercilessly and she as well as her daughter got hurt. However, she failed to produce any injury report or treatment papers of Army hospital or any other hospital during investigation. Investigation officer also fails to collect any medical treatment papers. She even did

not narrate those allegations during recording of her statements either 161 or 164 of the CrPC. This Court also does not find any medical injury report with regard to the allegation of strangulation. Even, she did not particularly indicate or state about the allegation of strangulation either in her 161 or 164 statement.

15. It further transpires from the written complaint that she was tortured physically, sexually, verbally, economically and emotionally including strangulation, caste- based insults and public humiliation. However, no particular date, time and place mentioned. During investigation, she did not specify those vital things in her statements. Upon careful perusal of the statements, this Court does not repose any confidence upon her versions because she narrated different types of allegations in her statements recorded under Sections 161 and 164 of CrPC and those are inconsistencies with written complaint. She fails to attribute specific offence committed by a particular accused person. No where she stated either in the 161 or 164 statement the date, time and place of such allegation of torture or assault or publicly humiliated in public view from the date of registration of marriage till 2016.

16. The investigation has also failed to disclose even a prima facie case of physical or mental torture for non-fulfilment of dowry

demand, or any entrustment or misappropriation of *stridhan* articles by petitioner no. 1 or the other accused.

17. The learned Sr. counsel rightly contended that Section 406 of IPC is inapplicable when all the articles were seized from the residents of the accused persons during investigation. Similarly, Section 506 of IPC is not attracted in the present case since no reliable averments have been made with regard section 506 of IPC. It is true that she has narrated that she was publicly humiliated and mocked by abusing for being a member of scheduled caste. She has narrated in the FIR that the mother-in-law allegedly said "tora bangle tora sekor bakor khash". Even if for the sake of argument that taken into consideration that the mother-in-law allegedly said within the precinct of matrimonial house and that would in no way from the public view.

18. Independent witnesses have not supported the allegations of quarrel, shouting or breaking door as alleged by the OP2. One witness, Subhrajit Mondal, brother of the opposite party no. 2 stated that he heard from the opposite party no. 2 that her husband, father-in-law tortured her even pity affairs. Her husband used to assault her. The accused persons insulted her by calling that she belongs to a lower caste resulted she was felt humiliation.

19. Upon perusal of the case diary, no material has been found to substantiate the allegation of humiliation or commission of any offence so as to attract the provisions of Section 3(1)(u) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. It stands admitted that the marriage between the parties was solemnised according to Hindu rites and customs nearly three years after its registration on 26.01.2014. The parties have been employed in the same office and have been in a relationship since their college time, both prior to and following the registration. The opposite party was, therefore, well acquainted with the temperament and conduct of the petitioner. Yet, in her complaint, she sought to portray the petitioner as impatient, aggressive, unsupportive, cruel, uncaring, insensitive, critical, demanding, dominating, self-obsessed, arrogant and unromantic from the very inception of their conjugal life. Such allegations, when viewed against the backdrop of her conscious decision to marry the petitioner after a prolonged love relationship, cannot easily commend acceptance to a prudent mind.

20. The contention that the petitioner was possessed of such adverse traits appears incongruent; particularly when the opposite party admittedly loved him prior to marriage and voluntarily contracted marriage after working alongside him in the Geological Survey of India. The marriage was not the outcome of a social

arrangement but was the culmination of a long-standing relationship. The parties were first married and registered on 21.04.2011, and subsequently, on 26.01.2014, the marriage was solemnized in accordance with Hindu rites and customs. Thereafter, they began residing together at the matrimonial home in Beliaghata and were blessed with a daughter on 19.12.2019.

21. It is significant to note that from 2011 until 2022, no complaint was lodged before any authority or police station, notwithstanding her claim that cruelty had been inflicted upon her from the inception of the marriage. She has not specified when such alleged cruelty actually began.

22. The incidents narrated in her complaint relate to 2017, the Covid period, November 2020, and lastly on 07.03.2022. The complaint, however, was instituted belatedly on 15.03.2022, and no satisfactory explanation has been offered for such delay. While this Court is conscious that cruelty under Section 498A of the Indian Penal Code may constitute a continuing offence, the law requires that allegations be clear, specific, and supported with particulars as to date, time, place, and manner.

23. Further, the role attributed to each accused must be distinctly established; otherwise, fixing criminal liability becomes

wholly unsustainable. The time-honored maxim ***"it is better that a hundred guilty persons escape than that one innocent suffer"*** remains the guiding principle in criminal jurisprudence, and serves as a reminder that courts must exercise utmost caution before branding any person guilty in the absence of cogent, credible and specific evidence.

24. A neighbour, Sri Puspajit Jha, residing on the 2nd floor of the same premises, in his statement under Section 161 CrPC, categorically deposed that though the petitioners and opposite party no. 2 resided on the 3rd floor, he had neither heard any quarrel nor witnessed any assault. He did not notice any matrimonial discord in the married life of the petitioner and opposite party no. 2. The opposite party no. 2 is now residing at her parental home. Other witnesses also did not corroborate the allegations. In the backdrop of pending proceedings—Matrimonial Suit No. 2818 of 2021 under Section 27(1)(a)/(b) of the Special Marriage Act, 1954, and AC No. 57 of 2021 under the Protection of Women from Domestic Violence Act, 2005—the present complaint appears prima facie vexatious. It is settled law that not every instance of discord amounts to "cruelty" within the meaning of Section 498A IPC; the conduct must be such as to drive the woman to grave injury or suicide, or to compel compliance with unlawful demands for dowry.

25. In the present case, it is evident from the written complaint itself that some natural or usual occurrences within the matrimonial home have been alleged as follows:

a) The couple jointly purchased an apartment in Kolkata. The opposite party No. 2 purchased all the furniture and fixtures at the said apartment but the petitioner No. 2 did not bear the expenses for the same.

b) Tanuja Konar, mother-in-law used to force the opposite party No. 2 to feed the child even when she was not hungry.

c) The petitioner No. 2 never provided for the essential articles for the baby and forced the opposite party No. 2 to purchase articles for the baby on the digital platform.

d) The opposite party No. 2 and her child were not provided with sufficient food, clothes, and medicines and she was compelled to purchase them online during the covid-19 lockdown.

e) pressurized her to pay the monthly instalment/EMI for repaying the loan, which they had availed of to purchase the apartment.

f) she came to learn that the petitioner No. 2 had taken out their daughter for an evening tour. Subsequently, since their daughter started crying, the petitioner No. 2 brought her back home. The child felt uncomfortable round her father.

26. It is inherent in conjugal life that both spouses are expected to maintain mutual respect, share responsibilities, and contribute to the welfare of the family. The opposite party no. 2 is an educated and earning woman, and the routine expectations of contributing towards household expenses, making online purchases during the Covid-19 lockdown, or being asked to feed the child by the mother-in-law, cannot, by any stretch, constitute "cruelty" within the meaning of Section 498A IPC. Likewise, payment of EMIs for a jointly acquired apartment, or the father taking the child outside, are not unusual incidents of domestic life.Where no specific role is attributed to any accused, and allegations lack particulars as to date, time, or manner of commission of offence, continuation of criminal proceedings would operate as prejudice and oppression against the accused.

27. It would be apposite to refer a recent decision of the Hon'ble Supreme Court in ***Dara Lakshmi Narayana and Ors. Vs. State of***

Telangana and Anr.[1] where the Hon'ble Supreme Court specifically dealt with the case involving offence under Section 498A of IPC and whether the same are attracted to vague allegations raised by the complainant/opposite party no. 2/wife and finally observed particularly in paragraph nos. 27 and 30 as under: -

> *"27. 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. ……*
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> *30. The inclusion of Section 498-A IPC by way of an amendment was intended to curb cruelty inflicted on a woman by her husband and his family, ensuring swift*

[1] (2025) 3 SCC 735: 2024 SCC OnLine SC 3682

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 498-A 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 scrutinised, 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 498-A 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."

28. Moreover, the alleged incident of insult and humiliation by saying she belongs to lower caste, as described did not occur in public view or in public place Therefore, it does not attract the provisions of Section 3(1)(u) of SC & ST (Prevention of Atrocities) Act. the nature of allegations does not clearly demonstrate any specific instance wherein the petitioners are shown to have abused or

humiliated the OP2 in the name of her caste, along with the place, time, and manner of such occurrence. There is no material to indicate that the alleged incident occurred in public view, as is required to attract the provisions of Sections 3(1)(u) of the SCs/STs (POA) Act, 2015.

29. The main crux before this Court is whether the allegations made fall within the parameters laid down by the Hon'ble Supreme Court in ***Hitesh Verma v. State of Uttarakhand and Another***[2], wherein it was held that for the offence under the said Act to be attracted, the insult or intimidation must occur in public view. Similar observations were made by the Apex Court in ***Sudhakar v. State***[3], wherein it was reiterated that the occurrence must be public and aimed at humiliating the complainant on the basis of caste.

30. The issue before this Court is to determine whether the allegations made against the petitioners attract the offence under Sections 3(1) (u) of the SCs/STs (POA) Act, particularly with regard to the requirement that the alleged insult or intimidation must have occurred in public view. The essential ingredients required to constitute the alleged offence are absent in the present case at hand.

31. Accordingly, this Court, while placing reliance on the aforesaid judgments of the Hon'ble Apex Court in ***Hitesh Verma v. State of***

[2] **(2020) 10 SCC 710**
[3] **(2018) 5 SCC 435**

Uttarakhand *and* ***Sudhakar v. State,*** finds it appropriate to interfere under Section 482 Cr.P.C., as the continuation of proceedings before the learned Trial Court, in respect of the alleged offence under Sections 3(1)(u) of the SCs/STs (POA) Act, would amount to an abuse of process of law. The allegations do not meet the statutory requirement of having been committed in public view, and therefore, no prima facie case is made out under the said provisions.

32. In view of the foregoing discussion and findings, this Court holds that the allegations do not satisfy the essential ingredients of Sections 3(1)(u) of the SCs/STs (POA) Act, as the alleged acts were not committed in public view. Other alleged offences are also not attracted on the basis of material available in the case diary particularly statements of the victim, independent witnesses (neighbours) Consequently, the continuation of the criminal proceedings against the petitioners would amount to an abuse of the process of law and for securing justice it would be appropriate to quashed the impugned proceedings, otherwise the petitioner would be highly prejudice and suffer oppression.

33. The allegation related to Section 77 of JJ Act is also not corroborated by any medical or psychological evidence. It is insufficient according to the written complaint, 161 and 164 statements of the opposite party/wife.

34. Taking note of the aforesaid facts, the present case seeks to invoke the extraordinary jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973.

35. We should also not forget at this moment, the well-settled law declared by the Hon'ble Supreme Court in the case of ***State of Haryana & Ors. vs. Bhajanlal & Ors.***[4] which has laid down the basic points for consideration pursuant to which a complaint may be entertained in accordance with law before a Court of law. The Hon'ble Court has narrated down as to when the extraordinary power of this Court under Section 482 of the Code of Criminal Procedure, 1973 may be espoused. Relevant portion thereof may beneficially be quoted herein below: -

> *"102. This Court in the backdrop of interpretation of various relevant provisions of CrPC under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 of the Constitution of India or the inherent powers under Section 482 CrPC gave the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of the court or otherwise to secure the ends of justice. Thus, this Court*

[4] AIR 1992 SUPREME COURT 604 : 1992 Supp. (1) Supreme Court Cases 335

made it clear that it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list to myriad kinds of cases wherein such power should be exercised:

> *(1) 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 entirety do not prima facie constitute any offence or make out a case against the accused.*
>
> *(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*
>
> *(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and

with a view to spite him due to private and personal grudge."

36. In the light of above discussions made by this Court and in view of observations made by the Hon'ble Supreme Court in the above cited judgment, this Court fully satisfies that this case falls in the Categories mentioned in 3 and 7 above.

37. Accordingly, **CRR No. 2329 of 2022** is, thus, **allowed**. Connected applications, if any, are also, thus, disposed of.

38. Consequently, the proceedings in Special Case No. 9/2022 arising out of Patuli P.S. Case No. 52/2022 dated 15.03.2022 under Sections 498A/406/506/34 of the Indian Penal Code, 1860, Sections 3/4 of the Dowry Prohibition Act, 1961 read with Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and Section 3(1)(u) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (corresponding to ACGR No. 1052/2022) now pending before the Court of the Learned District and Sessions Judge, 1st Court, Alipore, South 24 Parganas is hereby quashed and all orders passed therein in connection with the said proceeding are hereby set aside insofar as the present petitioners are concerned.

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

40. Interim order, if any, stands vacated.

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

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

43. 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.)