

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

**BEFORE:
THE HON'BLE JUSTICE SHAMPA DUTT (PAUL)**

CRR 529 of 2021

**Anita Mahajan & Ors.
Vs.
The State of West Bengal & Anr.**

With

CRR 531 of 2021

**Papri Debnath & Ors.
Vs
The State of West Bengal & Anr.**

For the Petitioners : Mr. Aniruddha Bhattacharya.
In CRR 529 of 2021

For the Petitioners : Mr. Dibayan Banerjee,
In CRR 531 of 2021 Mr. Abhrajit Roy Chowdhury.

For the Opposite Party No. 2 : Mr. Avik Ghatak,
In CRR 529 of 2021 Ms. Afreen Begum,
Mr. Dip Dutta.

For the State : Mr. Goutam Kumar Das.
In CRR 529 of 2021

For the State : Mr. Gouranga Das,
In CRR 531 of 2021 Ms. Koel Mukherjee.

Judgment reserved on : 09.09.2026/15.09.2026

Judgment delivered on : 29.09.2026

SHAMPA DUTT (PAUL), J.:-

1. This is an application challenging a proceeding in which charge sheet was submitted under Sections 406 and 498A read with Section 34 of the Indian Penal Code and Section 3(1) of the Scheduled Castes and Scheduled Tribes (Prevention and Atrocities) Act.
2. Learned counsel appearing on behalf of the petitioners submits that the petitioners are the mother in law, the father in law and the husband of the de facto complainant /opposite party no. 2, respectively. Initially an F.I.R. was lodged without adding the provisions of Scheduled Tribes (Prevention and Atrocities) Act. Only commonplace allegations were made. **After about nine days**, the de facto complainant gave another letter to the investigating officer trying to invoke provisions of the Scheduled Tribes (Prevention and Atrocities) Act. No prima facie case is made out against the petitioner as would be evident from a plain reading of the F.I.R and the Charge Sheet. Any further continuation of the impugned proceeding shall be an abuse process of the Court. Charge has not yet been framed in this case.
3. The contents in the written complaint are as follows:-

“.....the mental and physical torture as meted out by my husband and parents-in-law on me at my matrimonial home were more unbearable for me for the reason that they always caused humiliation and put me in trauma by saying that they made a mistake by taking a girl like me, who belongs to a schedule caste family and utterly threatened me of driving out of their house and to get another girl of higher caste to marry with my husband of him taking divorce from me. They have been doing such mischiefs in a planned and clever manner”.

- 4. In the initial written complaint dated 21.01.2020 registered after 66 days of being in her parental home, there was no allegations for offences punishable under Section SC & ST (POA) Act.**
- 5. The following judgment have been relied upon by the petitioner:-**
 - i. Haji Iqbal alias Bala vs State of U.P. and Ors. reported in 2023 SCC OnLine SC 946, the Hon’ble Apex Court in Paragraph 13,14,15).***
 - ii. Gulam Mustafa vs State of Karnataka, reported in 2023 SCC OnLine SC 603, Paragraphs 24, 34, 36, and 38).***
 - iii. Vineet Kumar vs State of U.P., reported in (2017) 13 SCC 369, paragraph 41.***

- iv. ***Ahmad Ali Quraishi vs State of U.P., reported in (2020) 13 SCC 435, Paragraph 23.***
- v. ***Jaideep Chatterjee and Ors. vs State of West Bengal and Anr. reported in 2023 SCC OnLine Cal 1790, Paragraphs 26 and 27.***
- vi. ***Manisha Devi vs Hari Lal Mahto & Ors. reported in 2016 SCC Online (Jhar) 2549, Paragraphs 6 & 7.***
- vii. ***Hitesh Verma vs State of Uttarakhand, reported in (2020) 10 SCC 710, Paragraphs 10,13,14,15 and 18.***
- viii. ***Gorige Pentaiah vs State of A.P. reported in (2008) 12 SCC 531, Paragraph 6.***
- ix. ***Narad Patel vs State of Chhattisgarh, reported in (2019) 6 SCC 268, Paragraph 8.***

6. Section 498A of IPC, lays down:-

“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.

Ingredients of offence. -The essential ingredients of the offence under sec. 498A are as follows:-

(1) A woman was married;

(2) She was subjected to cruelty;

(3) Such cruelty consisted in -

(i) any lawful conduct as was 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;

(ii) harm to such woman with a view to coercing her to meet unlawful demand for property or valuable security or on account of failure of such woman or any of her relations to meet the lawful demand;

(iii) the woman was subjected to such cruelty by her husband or any relation of her husband.”

7. In *Dara Lakshmi Narayana & Ors. vs State of Telangana & Anr., in Criminal Appeal No. of 2024 (arising out of SLP (Criminal) No. 16239 of 2024, decided on December 10, 2024,*
the Supreme Court held:-

“15. *An offence is punishable under Section 498A of the IPC when a husband or his relative subjects a woman to cruelty, which*

may result in imprisonment for a term extending up to three years and a fine. The Explanation under Section 498A of the IPC defines “cruelty” for the purpose of Section 498A of the IPC to mean any of the acts mentioned in clauses (a) or (b). The first limb of clause (a) of the Explanation of Section 498A of the IPC, states that “cruelty” means any wilful conduct that is of such a nature as is likely to drive the woman to commit suicide. The second limb of clause (a) of the Explanation of Section 498A of the IPC, states that cruelty means any wilful conduct that is of such a nature as to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman. Further, clause (b) of the Explanation of Section 498A of the IPC states that cruelty would also include harassment of the woman where such harassment is to coerce 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.

16. Further, Section 3 of the Dowry Act deals with penalty for giving or taking dowry. It states that any person who engages in giving, taking, or abetting the exchange of dowry, shall face a punishment of imprisonment for a minimum of five years and a fine of not less than fifteen thousand rupees or the value of the dowry, whichever is greater. Section 4 of the Dowry Act talks of penalty for demanding dowry. It states that any person demanding dowry directly or indirectly, from the parents or other relatives or guardians of a bride or bridegroom shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years and with fine which may extend to ten thousand rupees.

18. *A bare perusal of the FIR shows that the allegations made by respondent No.2 are vague and omnibus. Other than claiming that appellant No.1 harassed her and that appellant Nos.2 to 6 instigated him to do so, respondent No.2 has not provided any specific details or described any particular instance of harassment. She has also not mentioned the time, date, place, or manner in which the alleged harassment occurred. Therefore, the FIR lacks concrete and precise allegations.*

25. *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. In the present case, appellant Nos.2 to 6, who are the members of the family of appellant No.1 have been living in different cities and have not resided in the matrimonial house of appellant No.1 and respondent No.2 herein. Hence, they cannot be dragged into criminal prosecution and the same would be an abuse of the process of the law in the absence of specific allegations made against each of them.*

28. *The inclusion of Section 498A of the IPC by way of an amendment was intended to curb cruelty inflicted on a woman by her*

husband and his family, ensuring swift 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 498A of the 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 scrutinized, 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 498A of the 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.

29. We are not, for a moment, stating that any woman who has suffered cruelty in terms of what has been contemplated under Section 498A of the IPC should remain silent and forbear herself from making a complaint or initiating any criminal proceeding. That is not the intention of our aforesaid observations but we should not encourage a case like as in the present one, where as a counterblast to the petition for dissolution of marriage sought by the first appellant-husband of the second respondent herein, a complaint under Section 498A of the IPC is lodged by the latter. In fact, the insertion of the said provision is meant mainly for the protection of a woman who is subjected to cruelty in the matrimonial home primarily due to an unlawful demand for any property or valuable security in the form of

dowry. However, sometimes it is misused as in the present case.

30. *In the above context, this Court in **G.V. Rao vs. L.H.V. Prasad, (2000) 3 SCC 693** observed as follows:*

“12. There has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their “young” days in chasing their “cases” in different courts.”

31. *Further, this Court in **Preeti Gupta vs. State of Jharkhand (2010) 7 SCC 667** held that the courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment by the husband’s close relatives who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to*

be scrutinized with great care and circumspection.

32. *We, therefore, are of the opinion that the impugned FIR No.82 of 2022 filed by respondent No.2 was initiated with ulterior motives to settle personal scores and grudges against appellant No.1 and his family members i.e., appellant Nos.2 to 6 herein. Hence, the present case at hand falls within category (7) of illustrative parameters highlighted in **Bhajan Lal**. Therefore, the High Court, in the present case, erred in not exercising the powers available to it under Section 482 CrPC and thereby failed to prevent abuse of the Court's process by continuing the criminal prosecution against the appellants."*

8. In *Hitesh Verma vs The State of Uttarakhand & Anr., Criminal*

Appeal No. 707 of 2020, on 05.11.2020, the Court held:-

"14. *Another key ingredient of the provision is insult or intimidation in "any place within public view". What is to be regarded as "place in public view" had come up for consideration before this Court in the judgment reported as **Swaran Singh & Ors. v. State through Standing Counsel & Ors.,(2008) 8 SCC 435**. The Court had drawn distinction between the expression "public place" and "in any place within public view". It was held that if an offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within the public view. On the contrary, if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then it would not be an offence since it is not in the public view. The Court held as under:*

“28. It has been alleged in the FIR that Vinod Nagar, the first informant, was insulted by Appellants 2 and 3 (by calling him a “chamar”) when he stood near the car which was parked at the gate of the premises. In our opinion, this was certainly a place within public view, since the gate of a house is certainly a place within public view. It could have been a different matter had the alleged offence been committed inside a building, and also was not in the public view. However, if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, the lawn would certainly be a place within the public view. Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view. We must, therefore, not confuse the expression “place within public view” with the expression “public place”. A place can be a private place but yet within the public view. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaon sabha or an instrumentality of the State, and not by private persons or private bodies.”

15. *As per the FIR, the allegations of abusing the informant were within the four walls of her building. It is not the case of the informant that there was any member of the public (not merely relatives or friends) at the time of the incident in the house. Therefore, the basic ingredient that the words were uttered “in any place within public view” is not made out. In the list of witnesses appended to the charge-sheet, certain witnesses are named but it could not be said that those were the persons present within the four walls of the building. The offence is alleged to have taken place within the four walls of the building. Therefore, in view of the judgment of this Court in **Swaran Singh**, it*

cannot be said to be a place within public view as none was said to be present within the four walls of the building as per the FIR and/or charge-sheet.”

9. The Supreme Court in *Ramawatar vs State of Madhya Pradesh*

reported in **AIR 2021 SC 5228**, categorically held:-

“16. On the other hand, where it appears to the Court that the offence in question, although covered under the SC/ST Act, primarily private or civil in nature, or where the alleged offence has not been committed on account of the caste of the victim, or where the continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its power to quash the proceedings. On similar lines, when considering a prayer of quashing on the basis of compromise/settlement, if the Court is satisfied that the underlying objection of the Act would not be contravened or diminished even if the felony in question goes unpunished, the mere fact that the offence is covered under a ‘special statute’ would not refrain this Court or the High Court, from exercising their respective powers under Article 142 of the Constitution or Section 482 Code of Criminal Procedure.”

10. The Hon’ble Supreme Court in *Ramesh Chandra Vaishya vs. The State of Uttar Pradesh & Anr.* in *Criminal Appeal No...../2023*

(arising out of SLP(CRL) No. 1249 of 2023) in Paragraph 18 held:-

“18. That apart, assuming arguendo that the appellant had hurled caste related abuses at the complainant with a view to insult or humiliate him, the same does not

advance the case of the complainant any further to bring it within the ambit of section 3(1)(x) of the SC/ST Act. We have noted from the first F.I.R. as well as the charge-sheet that the same makes no reference to the utterances of the appellant during the course of verbal altercation or to the caste to which the complainant belonged, except for the allegation/observation that caste-related abuses were hurled. The legislative intent seems to be clear that every insult or intimidation for humiliation to a person would not amount to an offence under Section 3(1)(x) of the SC/ST Act unless, of course, such insult or intimidation is targeted at the victim because of he being a member of a particular Scheduled Caste or Tribe. If one calls another an idiot (bewaqaof) or a fool (murkh) or a thief (chor) in any place within public view, this would obviously constitute an act intended to insult or humiliate by use of abusive or offensive language. Even if the same be directed generally to a person, who happens to be a Scheduled Caste or Tribe, per se, it may not be sufficient to attract section 3(1)(x) unless such words are laced with casteist remarks. Since section 18 of the SC/ST Act bars invocation of the court's jurisdiction under Section 438, Cr.P.C. and having regard to the overriding effect of the SC/ST Act over other laws, it is desirable that before an accused is subjected to a trial for alleged commission of offence under section 3(1)(x), the utterances made by him in any place within public view are outlined, if not in the F.I.R. (which is not required to be an encyclopaedia of all facts and events), but at least in the charge-sheet (which is prepared based either on statements of witnesses recorded in course of investigation or otherwise) so as to enable the court to ascertain whether the charge sheet makes out a case of an offence under the SC/ST Act

having been committed for forming a proper opinion in the conspectus of the situation before it, prior to taking cognizance of the offence. Even for the limited test that has to be applied in a case of the present nature, the charge-sheet dated 21st January, 2016 does not make out any case of an offence having been committed by the appellant under section 3(1)(x) warranting him to stand a trial.”

11. In *Randheer Singh vs The State of U.P. & Ors., Criminal Appeal*

No. 932 of 2021, on September 02, 2021, the Supreme Court

held:-

“23. Even though an FIR need not contain every detail, an offence has to be made out in the FIR itself. It is the case of the Private Respondents that Bela Rani has no title. Bela Rani executed a false Power of Attorney in favour of Rajan Kumar (since deceased). Alternatively, the Power of Attorney, in itself, was a forged document.

33. In this case, it appears that criminal proceedings are being taken recourse to as a weapon of harassment against a purchaser. It is reiterated at the cost of repetition that the FIR does not disclose any offence so far as the Appellant is concerned. There is no whisper of how and in what manner, this Appellant is involved in any criminal offence and the charge sheet, the relevant part whereof has been extracted above, is absolutely vague. There can be no doubt that jurisdiction under Section 482 of the Cr.P.C. should be used sparingly for the purpose of preventing abuse of the process of any court or otherwise to secure the ends of justice. Whether a complaint discloses criminal offence or not depends on the nature of the allegation and whether the essential ingredients of a criminal offence are present or not has to be judged by the High Court. There

can be no doubt that a complaint disclosing civil transactions may also have a criminal texture. The High Court has, however, to see whether the dispute of a civil nature has been given colour of criminal offence. In such a situation, the High Court should not hesitate to quash the criminal proceedings as held by this Court in Paramjeet Batra (supra) extracted above.”

12. There is no material in the case diary to show that the de facto complainant was allegedly abused in public.
13. Though the de facto complainant states that she has been insulted due to her caste, there is absolutely no materials or statements on record to make out any of the offences against the opposite party as alleged, neither in the FIR, nor in the charge sheet. ***(Hitesh Verma vs The State of Uttarakhand & Anr. (Supra))*** and ***(Ramesh Chandra Vaishya vs. The State of Uttar Pradesh & Anr. (Supra))***.
14. The proceeding being Special Case No. 9 of 2020 (corresponding to A.C.G.R. No. 294 of 2020) pending before the Learned Additional District and Sessions Judge, 1st Court, Alipore, South 24-Parganas arising out of Garfa Police Station Case No. 37 of 2020 dated 21.01.2020 under Sections 498A/406/34 of the Indian Penal Code read with section 3(1)(r)/3(1)(s)/3(1)(t) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, **and** proceedings being Special Case No. 21 of 2020 (corresponding to A.C.G.R. No. 3525 of 2020) pending before the Learned Additional District and Sessions Judge, 1st Court, Alipore, South 24-Parganas arising out of Garfa

Police Station Case No. 274 of 2020 dated 14.08.2020 under Sections 506/509/34 of the Indian Penal Code read with sections 3(1)(r)/3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and all orders passed therein including the order dated 01.12.2020 passed by the Learned Additional District and Sessions Judge, 1st Court, Alipore, South 24-Parganas, **is hereby quashed in respect of the petitioners namely Anita Mahajan, Sadhan Chandra Mahajan, Bihan Mahajan, Papri Debnath and Piyali Bhowmick.**

15. Thus the revisional application being CRR 529 of 2021 with CRR 531 of 2021 are hereby allowed.

16. All connected applications, if any, stand disposed of.

17. Interim order, if any, stands vacated.

18. Copy of this judgment be sent to the learned Trial Court for necessary compliance.

19. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)