

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

**PRESENT:
THE HON'BLE JUSTICE UDAY KUMAR**

CRR 357 OF 2020

**ARUN KR. MONDAL @ ARUN KUMAR MONDAL & ORS.
-VS-
STATE OF WEST BENGAL AND ANR.**

For the Petitioners : Ms. Sudarshana Srivastava, Ld. Adv.

For the State : Mr. Anand Kesari, Ld. Adv.
Mr. Dipankar Paramanick, Ld. Adv.

Hearing concluded on : 05.05.2026

Judgment on : 02.07.2026

UDAY KUMAR, J.: –

1. This application under Section 482 of the Code of Criminal Procedure, 1973, seeks the quashing of criminal proceedings in Raniganj P.S. Case No. 208/16 (G.R. Case No. 1345/16), currently pending before the learned Judicial Magistrate, 7th Court, Asansol. The petitioners face charges under Sections 323, 406, 498A, and 34 of the Indian Penal Code, read with Sections 3 and 4 of the Dowry Prohibition Act, 1961. The petitioners challenge the proceeding on the grounds of lack of territorial jurisdiction, the presence of "omnibus" allegations aimed at harassing the family, and the contention that the complaint is a *mala*

fide "counter-blast" to a pending civil suit for judicial separation, thereby constituting an abuse of the legal process.

FOUNDATIONAL FACTS AND CHRONOLOGICAL NARRATIVE

2. The matrimonial alliance between the complainant-wife and the petitioner-husband was solemnized on 26.07.2015. Following the nuptials, the parties resided at the matrimonial home located at Telmarui, within the district of Purba Burdwan. The complainant alleges that her tenure at the matrimonial home was characterized by a systematic pattern of dowry demands and persistent humiliation regarding the nature and quality of gifts provided by her parental family. She further contends that this environment of domestic strife escalated into severe physical and mental cruelty, culminating in a specific incident on 28.04.2016, which she characterizes as an attempt on her life.
3. Seeking safety and shelter, the complainant departed from the matrimonial home and sought refuge at her parental residence in Raniganj. The prosecution's case further hinges upon an alleged incident occurring on 01.05.2016 at Raniganj, while at her parental home, the complainant alleges that she was subjected to further physical assault and the forceful misappropriation of her *Stridhan* (personal property and assets).
4. Prior to the institution of these criminal proceedings, the complainant had pursued legal redress under the Protection of Women from Domestic Violence Act, 2005. However, this proceeding was later withdrawn; the

learned Magistrate permitted the withdrawal on 04.12.2018, while explicitly recording a judicial caution against the practice of multi-forum litigation. It is this chronological progression from the initial matrimonial discord in Purba Burdwan to the specific alleged criminal acts in Raniganj, juxtaposed with the history of prior civil-remedial litigation that forms the evidentiary bedrock for the present dispute.

5. To address this dispute, this Court needs to answer the following primary questions.

- i. Whether the Asansol Court possesses territorial jurisdiction over the offence despite the matrimonial home being situated in Purba Burdwan?
- ii. Whether the charge sheet contains specific, actionable overt acts against each petitioner or consists of merely "omnibus" and "casual" allegations intended to harass the entire family?
- iii. Whether the complaint is a *mala fide* "counter-blast" warranting quashing under Section 482 Cr.P.C?

6. Ms. Sudarshana Srivastava, Learned counsel for the petitioners submitted that the proceedings are a result of "calculated matrimonial malice." Invoking the principles laid down in the seventh category of *State of Haryana v. Bhajan Lal* [1992 Supp (1) SCC 335], they argued that the complaint is maliciously instituted to wreak vengeance for the husband's civil suit.

7. The petitioners contend that the matrimonial home and primary events occurred in Purba Burdwan, rendering the Asansol Court *forum non conveniens*. Relying on Section 177 Cr.P.C., they asserted that the trial

must be held where the offence was committed. They further relied on *Preeti Gupta v. State of Jharkhand* [(2010) 7 SCC 667] and *Geeta Mehrotra v. State of U.P.* [(2012) 10 SCC 741], to contend that the allegations against the family members are vague, "omnibus" and manufactured to subject the entire family to the trauma of a protracted trial based on sweeping, generalized accusations. They urged that the law should not be used as a weapon to harass an entire family, particularly when complaints are filed in the "heat of the moment" over trivial issues.

8. Regarding territorial jurisdiction, Learned Counsel for the petitioners argued that the nexus to the Asansol Court is non-existent, as the entire matrimonial life was spent, and the primary events occurred, at Telmarui within the judicial district of Purba Burdwan. She asserted that the incident alleged to have occurred on 01.05.2016 was a mere fabrication intended to confer jurisdiction *mala fide* upon a court that otherwise lacks it, rendering the proceeding *coram non judice*, especially since the investigating agency dropped more serious charges under Sections 307 and 324 of the IPC.
9. Finally, she characterized the wife's unconditional withdrawal of her prior Domestic Violence Act case as evidence of "forum shopping," arguing that such repetitive litigation serves only to harass the petitioners and clog the wheels of justice.
10. In sharp contrast, Mr. Anand Kesari and Mr. Dipankar Paramanick, learned counsel for the State and the de facto complainant vehemently defended the legitimacy of the trial. They submitted that when the

complaint is read alongside the witness statements collected during the investigation, the charge sheet discloses a robust *prima facie* case. He further contended that the husband's civil suit for judicial separation was, in fact, a pre-emptive strike intended to evade impending criminal liability.

- 11.** On the issue of jurisdiction, Learned Counsel relied upon the transformative judgment in *Rupali Devi v. State of Uttar Pradesh* [(2019) 5 SCC 384]. He emphasized that the trauma of cruelty follows the woman to her place of shelter.

"The persistent mental cruelty... would continue to cause mental agony to the woman and also create a worry in her mind... The adverse impact of the cruelty... would continue to persist at the place where she has taken shelter."

He argued that this legal principle, coupled with the specific overt acts of physical assault and theft occurring in Raniganj on 01.05.2016, firmly validates the jurisdiction of the Asansol Court.

- 12.** Distinguishing the present facts from *Preeti Gupta (supra)* and *Geeta Mehrotra (supra)*, Learned Counsel submitted that the charge sheet is based on specific, actionable overt acts rather than "casual references." He clarified that unlike the "remote relatives" in those cited cases, the petitioners here are immediate family members whose physical presence during the acts of cruelty is corroborated by witness accounts, a factor further supported by the standard in *K. Subba Rao v. State of Telangana* [(2018) 14 SCC 452].

- 13.** Finally, he argued that the withdrawal of the Domestic Violence case is a "red herring," as the D.V. Act provides a civil remedy whereas the IPC provides a punitive one; the two are concurrent and not mutually exclusive.

DISCUSSIONS

- 14.** Having heard the learned advocates appearing for the respective parties, perused the Case Diary, and the contents of the Charge-Sheet, I find that the petitioners challenge the territorial jurisdiction of the Asansol Court, invoking the traditional mandate of Section 177 of the Cr.P.C., which requires an offence to be tried within the jurisdiction where it was committed. They argue that the alleged incident since had occurred at Telmarui, i.e., her matrimonial home, in Purba Burdwan at Burdwan, the Criminal Court at Purba Burdwan should be the sole seat of trial, rendering the Asansol Court *forum non conveniens*.

- 15.** Admittedly, this argument rests on a narrow, traditional, and localized interpretation of Section 177 of the Cr.P.C, which is refuted by the principles laid down by the Hon'ble Supreme Court in *Rupali Devi v. State of Uttar Pradesh (supra)*. The Apex Court held:

"The persistent mental cruelty... would continue to cause mental agony to the woman and also create a worry in her mind... The adverse impact of the cruelty... would continue to persist at the place where she has taken shelter."

- 16.** Matrimonial cruelty is a "continuing offence." The trauma would not terminate when the complainant left Purba Burdwan; it persisted at her

place of shelter in Raniganj. Furthermore, the fresh, actionable overt acts of the physical assault and the theft of *Stridhan* on 01.05.2016 was occurred within the territorial limits of Paschim Bardhaman. These constitute independent criminal acts, granting the Asansol Court clear jurisdictional competence.

17. The jurisdictional challenges of the petitioners are, therefore, rejected, as the nexus between the offence and the territorial jurisdiction of the Asansol Court is firmly established. The trial court at Asansol is indeed a court of competent jurisdiction.

18. Turning to the second question relating to the omnibus allegations test the petitioners rely on *Preeti Gupta v. State of Jharkhand (supra)* and *Geeta Mehrotra v. State of U.P. (supra)*, where the Supreme Court cautioned:

"It is a matter of common experience that most of these complaints under section 498-A IPC are filed in the heat of the moment over trivial issues... This leads to a lot of harassment, not only to the husband, but also to his entire family."

19. In *Preeti Gupta (supra)* and *Geeta Mehrotra (supra)*, the accused were distant relatives residing in separate locations, against whom the allegations were purely "casual." In the instant case, the accused are immediate family members living in a shared household. My examination of the Case Diary reveals distinct, actionable acts: the mother-in-law's participation in the misappropriation of *Stridhan* and the sister-in-law's role in the assault on 28.04.2016.

20. As per *K. Subba Rao v. State of Telangana (supra)*:

"The courts should be careful in proceeding against the distant relatives in crimes of this nature... But at the same time, if there is sufficient material... the court should not stifle the prosecution."

- 21.** Since the investigative agency has gathered sufficient material supported by witness statements, I cannot characterize the charge sheet as "omnibus." To quash proceedings at this stage would be tantamount to conduct a "mini-trial" which is legally impermissible as the same would come under the sole province of the trial court.
- 22.** Coming to the last question relating to the plea of *mala fides* and the "Counter-Blast" of the complaint. The petitioners invoke the seventh category of *State of Haryana v. Bhajan Lal (supra)*, asserting that the complaint is a *mala fide* "counter-blast." *Bhajan Lal* allows for quashing only when allegations are "absurd and inherently improbable" on their face. The current allegations are supported by medical reports and witness testimony, rendering the "absurdity" test inapplicable.
- 23.** Finally, the withdrawal of a D.V. Act petition does not estop an IPC prosecution. The D.V. Act provides a civil-remedial mechanism, whereas the IPC provides a punitive one; they are concurrent, not mutually exclusive. As long as the charge sheet discloses the commission of a cognizable offence and is supported by material evidence, this Court cannot stifle the prosecution based on the petitioners' characterization of the complainant's intent. The determination of whether the complaint is a legitimate grievance or a calculated act of harassment remains a triable issue of fact, not a ground for summary quashing. The petitioners are entitled to raise the plea of *mala fide* and retaliatory litigation as a

defence during the trial, where they can cross-examine the witnesses and bring their own evidence. At this juncture, the claim of "abuse of process" is not established to the extent required to invoke this Court's extraordinary jurisdiction.

24. The materials on record, including the Charge Sheet and witness statements, discloses a *prima facie* case. The jurisdictional and factual challenges raised by the petitioners are triable issues that cannot be resolved in a summary proceeding under Section 482 of the Cr.P.C. without conducting a "mini-trial." Therefore, the prayer for quashing is declined.

25. Having traversed the facts, the procedural history, and the prevailing legal principles, this Court arrives at the following conclusions:

- i. the allegations of physical assault at the parental home in Raniganj constitute a distinct and continuing cause of action, vesting the Learned Judicial Magistrate at Asansol with valid Territorial Jurisdiction under *Rupali Devi (supra)*.
- ii. the withdrawal of proceedings under the Domestic Violence Act does not act as a legal bar to a criminal prosecution under Section 498A/406 IPC, as the two statutory frameworks are independent.
- iii. the petitioners No. 2 to 5 are not "distant or non-resident relatives" as contemplated in *Preeti Gupta (supra)*; rather, they are immediate family members to whom specific overt acts have been attributed in the Charge Sheet, the omnibus argument fails.

iv. the inherent power of the High Court under Section 482 of the Cr.P.C. cannot be exercised to quash a proceeding where the Charge Sheet discloses the ingredients of cognizable offences, regardless of the alleged underlying matrimonial bitterness. The alleged *mala fides* of the complainant constitute a triable defence rather than a justification for invoking the extraordinary powers under Section 482 of the Cr.P.C.

26. In view of the findings recorded above, this Court finds no merit in the present revisional application. The materials on record, including the Charge Sheet and the statements of witnesses, disclose a *prima facie* case that warrants a full-fledged trial. The prayer for quashing of Raniganj P.S. Case No. 208/16 is hereby declined.

27. Accordingly,

- i. the Revisional Application (C.R.R. No. 357 of 2020) is dismissed.
- ii. The prayer for quashing Raniganj P.S. Case No. 208/16 is refused.
- iii. The learned Judicial Magistrate, 7th Court, Asansol, is directed to expedite the trial, without granting unnecessary adjournments.
- iv. The findings recorded in this judgment are based on materials currently on record solely for the purpose of deciding the present application for quashing and shall not be construed as an expression of opinion on the merits during the trial.

- v. The Learned Trial Court shall decide the case strictly on its own merits, based on the evidence to be adduced during the trial, without being influenced by any observations made herein.
- vi. All interim orders are vacated.
- vii. Application, if any, is disposed of accordingly.
- viii. Case diary, if any, be returned to the Learned Counsel for the State.
- ix. The Registrar (Judicial Service) is directed to communicate a copy of this order to the Learned District & Sessions Judge, Paschim Bardhaman, and the Learned Judicial Magistrate, 7th Court, Asansol, for information and necessary compliance.
- x. There shall be no order as to costs.
- xi. All parties are to act on a server copy of this order.
- xii. Urgent photostat certified copy of this order, if applied for, be supplied to the parties expeditiously upon compliance with all necessary legal formalities.

(Uday Kumar, J.)