

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

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

CRR 2061 OF 2024

CRAN 1 OF 2024

**HUSBAND OF VICTIM GIRL & ORS.
-VS-
STATE OF WEST BENGAL & ANR.**

For the Petitioners : Mr. Soumen Chatterjee
Mr. Maidul Islam Kayal
Mr. Archisman Singh
Mr. Noorul Amin Sardar

For the State : Mr. Ramashis Mukherjee
Mr. Neel Chakraborty

Reserved on : 20.08.2026

Pronounced on : 25.08.2026

UDAY KUMAR, J.: –

INTRODUCTION

- 1) Matrimonial disputes in contemporary society occasionally cross the fragile threshold separating civil estrangement from vexatious criminal litigation. When civil remedies for the dissolution of marriage are invoked by one spouse, the consequential institution of criminal

proceedings bearing grave penal consequences against the entire extended family demands rigorous judicial scrutiny.

- 2)** This criminal revisional application under Section 482 read with Section 401 of the Code of Criminal Procedure, 1973, has been brought before this Court by the petitioners, who comprise the husband and several members of his extended family, seeking the quashing of Charge Sheet No. 214 of 2023 dated September 30, 2023. This charge sheet arises out of Eco Park Police Station Case No. 168 of 2023 corresponding to G.R. No. 1887 of 2023 under Sections 498A, 323, 376, 406, 506, 109, and 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act, 1961 presently pending before the Learned Chief Judicial Magistrate at Barasat, North 24-Parganas.

FOUNDATIONAL FACTS

- 3)** Tracing the factual backdrop that culminated in the filing of this revision petition, I find that the marriage between Petitioner No. 1 (Amit Jaiswal) and Opposite Party No. 2 (the de facto complainant-wife) was solemnized on April 17, 2022, according to Hindu rites and customs at a banquet hall in Baguiati, Kolkata, and was subsequently registered on May 12, 2022, as borne out from Paragraphs 2 and 3 of the connected Matrimonial Suit and Paragraph 4 of the instant CRR application.
- 4)** However, scarcely days after the marriage and its formal registration, marital discord brewed. According to the husband's pleadings in Paragraphs 9 and 13 of the Mat Suit, the wife left the matrimonial home on May 15, 2022, under the pretext of visiting her ailing sister and

thereafter refused to return, demanding separation. Conversely, the narrative set up by the wife in Paragraphs 8 and 11 of her Police Complaint asserts that she was subjected to acute physical and mental torture, coupled with an alleged incident of grave sexual assault on May 10, 2022, by her brother-in-law (Petitioner No. 2), ultimately driving her out of the house by May 17, 2022.

- 5) Confronted with desertion and failed reconciliation efforts, the petitioner husband formally reported the matter to the local police authorities vide G.D. Entry No. 1470 dated April 30, 2023, at Eco Park Police Station, followed by a formal written complaint to the Commissioner of Police, Bidhannagar, on May 11, 2023, and eventually instituted MAT Suit No. 1153 of 2023 on May 30, 2023, before the District Judge at Barasat, seeking dissolution of his marriage by a decree of divorce on the grounds of cruelty and desertion, as noted in Paragraph 7 of the CRR.
- 6) Significantly, it was only after receiving the summons of the said Matrimonial Suit that Opposite Party No. 2 lodged a delayed written complaint on July 18, 2023, at Eco Park Police Station, resulting in Eco Park Police Station Case No. 168 of 2023. Upon completion of the investigation, the police submitted Charge Sheet No. 214 of 2023 dated September 30, 2023, under Sections 498A/323/376/406/506/109/34 IPC and Section 4 of the Dowry Prohibition Act against the husband and multiple extended family members. It is this charge sheet and the ensuing criminal proceeding that have driven the petitioners to invoke the inherent jurisdiction of this Court.

SUBMISSIONS ON BEHALF OF THE PETITIONERS

- 7) Mr. Soumen Chatterjee, learned counsel appearing for the petitioners, has vehemently argued that the present criminal proceeding is a classic textbook illustration of a mala fide counter-blast instituted solely to retaliate against the divorce suit initiated by the husband. Mr. Chatterjee invited this court's attention to a glaring chronological anomaly that the wife willingly participated in the formal registration of her marriage before the Marriage Registrar on May 12, 2022, just two days after the alleged gruesome incident of rape by the brother-in-law on May 10, 2022, which, according to him, completely falsified and shattered the prosecution story.
- 8) Furthermore, Mr. Chatterjee emphasized that the FIR was lodged in July 2023, strictly *after* the wife received summons in the divorce suit filed in May 2023. He contended that this sequence demonstrates an oblique motive to harass the entire extended family with omnibus and sweeping allegations.
- 9) Placing heavy reliance on the landmark judgment of the Hon'ble Supreme Court in *State of Haryana v. Bhajan Lal* (1992 Supp (1) SCC 335), and specifically invoking Category (7) of the guidelines enumerated therein, Mr. Chatterjee submitted that the criminal proceeding is manifestly attended with mala fides and has been maliciously instituted with an ulterior motive for wreaking vengeance on the accused. Therefore, he prays for the quashing of the entire proceeding.

***SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTY, THE
STATE***

- 10)** Per contra, Mr. Ramashis Mukherjee, learned Counsel appearing for the State and the opposite party, strongly urged that the filing of a charge sheet by an independent investigating agency constitutes prima facie proof of sufficient materials collected during investigation, disclosing cognizable offenses. Mr. Mukherjee referred the statement of the victim lady recorded under Section 164 of the CrPC placed as at page 30 of the revisional application, wherein she has explicitly laid down the factual matrix of the offenses in black and white.
- 11)** Referring further to the supporting statements of witnesses recorded under Section 161 of the CrPC, the seizure list, and the medical reports, Mr. Mukherjee submitted that there is an abundance of prima facie material warranting a trial. Citing the very same landmark authority of *State of Haryana v. Bhajan Lal (supra)*, the learned counsel for the State contends that where a prima facie case is clearly disclosed from the record and the police have collected substantial incriminating material upon investigation, the parameters laid down in *Bhajan Lal (supra)* itself prohibit the quashing of the proceeding at the threshold stage.
- 12)** He fiercely argued that disputed questions of fact, defence alibis, and the timing of civil litigation versus criminal complaints cannot form the basis for quashing under Section 482 CrPC. All such contentions, he argued, must be tested through the crucible of a full-fledged trial before the court below and cannot be evaluated at the threshold stage. As

such, he prays for the dismissal of this revisional application as being devoid of merit.

ISSUE FOR DETERMINATION

- 13)** Heard the exhaustive submissions advanced by the learned counsels for both sides and perused the materials on record. The core issue that falls for determination in the present revisional application is:

“Whether this Court, exercising its extraordinary inherent jurisdiction under Section 482 of the Code of Criminal Procedure, is justified in cutting short a criminal proceeding and quashing of a duly submitted charge sheet on the grounds of timeline anomalies, alleged counter-blast timing, and parallel civil disputes, or whether such disputed factual nuances and the sufficiency of prima facie materials ought to be left for determination by the trial court during trial?”

EXHAUSTIVE DISCUSSION ON FACTS, LAW, AND CASES

- 14)** I have given my anxious and thoughtful consideration to the rival submissions advanced by the respective parties and carefully evaluated the parameters of law governing the inherent powers of this Court under Section 482 CrPC.
- 15)** It is extremely pertinent to note that both sides have anchored their respective arguments upon the classic exposition of law rendered by the Hon'ble Supreme Court in *State of Haryana v. Bhajan Lal (supra)*. While the petitioners rely upon Category (7) of the guidelines in *Bhajan Lal*, which contemplates cases where a criminal proceeding is manifestly attended with mala fides and instituted maliciously with an ulterior

motive, the State counters by invoking the foundational caveat in *Bhajan Lal* that where a prima facie cognizable case is made out from the record, the extraordinary power under Section 482 cannot be invoked to stifle a genuine prosecution.

16) Examining the structural facts of this case logically in light of this competing reliance, I find that the petitioners have built their factual edifice on the ground of improbability and timing that they point out that the alleged horrific incident of sexual assault took place on May 10, 2022, yet the complainant wife voluntarily joined her husband to formally register their marriage before the Registrar just 48 hours later on May 12, 2022, and subsequently continued to reside in the matrimonial home until mid-May 2022. The counsel for the petitioner argues that no prudent woman would register her marriage days after being violated by a family member, and that the criminal case filed in July 2023 is nothing but a retaliatory counter-blast to MAT Suit No. 1153 of 2023 instituted by the husband on May 30, 2023 seeking divorce.

17) However, upon weighing the records, I must carefully distinguish the factual matrix of *Bhajan Lal* from the case at hand. In *Bhajan Lal*, the Apex Court addressed situations where the allegations on the face of the record, even if accepted in their entirety, failed to disclose any cognizable offense or showed an absolute absence of a prima facie case. In stark contrast, the record before me tells a very different story. Here, a neutral law enforcement agency has conducted a detailed investigation and submitted Charge Sheet No. 214 of 2023 under

Section 173 of the Code. More importantly, as rightly pointed out by the State, the case diary is replete with substantive incriminating materials, specifically, the victim's solemn statement recorded under Section 164 CrPC at page 29, statements of independent witnesses under Section 161 CrPC, seizure lists, and medical documentation.

- 18)** The legal position in this regard is further reinforced by the authoritative pronouncement of the Hon'ble Supreme Court in *Kaptan Singh v. State of Uttar Pradesh and Others* [(2021) 9 SCC 35], wherein it was held that once an investigating officer concludes an investigation and submits a charge sheet, it stands as a strong prima facie indicator of sufficient material collected against the accused persons. The High Court, while exercising jurisdiction under Section 482 CrPC, cannot conduct a mini-trial, weigh the pros and cons of conflicting versions, or test the veracity of the 48-hour gap between the alleged assault and marriage registration.
- 19)** Defense alibi, discrepancies in dates (such as whether the wife left on May 15 or May 17), and the timing of a criminal complaint vis-à-vis a civil matrimonial suit are quintessential matters of evidentiary appreciation. These issues can only be tested through cross-examination during a full-fledged trial before the trial court. To prematurely throttle a prosecution where a prima facie case is clearly disclosed from the police report and case diary would amount to an unwarranted judicial overreach into the domain of the trial court.
- 20)** Therefore, upon a harmonious balancing of the facts, the statutory provisions, and the true ratio decidendi of *Bhajan Lal* and *Kaptan*

Singh, I am of the considered view that the ingredients required to invoke Category (7) of *Bhajan Lal* at the threshold stage are absent, and there is no justifiable ground to interfere with the ongoing criminal proceeding.

CONCLUSION

- 21)** Consequently, the criminal revisional application being CRR No. 2061 of 2024 is dismissed.
- 22)** CRAN 1 of 2024 is also disposed of accordingly.
- 23)** All interim orders, if any, stand vacated.
- 24)** There shall be no order as to costs.
- 25)** The Learned Chief Judicial Magistrate at Barasat, North 24-Parganas, as well as the concerned trial court, are directed to proceed with the respective trials expeditiously in accordance with law, uninfluenced by any observations made herein.
- 26)** All factual contentions and defences raised by the petitioners are kept open to be urged at the appropriate stage of the trial.
- 27)** Case diary, if any, be returned forthwith.
- 28)** Let a copy of this judgment along with the trial court records be transmitted to the Learned Trial Court forthwith for information and necessary compliance.
- 29)** Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Uday Kumar, J.)