

23.04.2026

Sl. No.04.

D/L.

Mithun.

Ct.No.29.

CRR/1586/2026

Nirvik Banerjee

Vs.

State of West Bengal & Anr.

Mr. Milon Mukherjee, Ld. Sr. Adv.,

Ms. Nandita Kundu

...for the petitioner

The petitioner herein is aggrieved with the proceeding being G.R. Case No.4467 of 2026 under Sections 85 /115(2) of the BNS read with Sections 3 & 4 of the Dowry Prohibition Act which is presently pending before learned Chief Judicial Magistrate, Barasat.

Being aggrieved by the aforesaid proceeding, learned Counsel for the petitioner submits that the marriage between the petitioner and the opposite party no.2 was solemnized on January 28, 2016. The opposite party no.2/complainant left her matrimonial home and started residing with her parents from March, 2018. A male child was born in the said wedlock.

Thereafter on 6th January, 2021, the petitioner filed a suit for restitution of conjugal rights where a successful mediation took place and both the parties agreed to restore their matrimonial tie and as a result of which the petitioner herein had withdrawn the aforesaid suit. Thereafter, the Trial Court passed an order on 15.12.2025 in Misc. Case No.99 of 2025 under the Guardians and Wards Act, 1890 and few days thereafter, the wife/*de facto*

complainant lodged the instant case wherein she has stated that the date and time of occurrence is in between 28.01.2016 and 27.12.2025. In the written complaint she has totally suppressed about the factum of successful mediation and the Memorandum of Understanding wherein she has stated on 09.02.2024 that the parties have no allegation against each other and thereby they agreed to raise their child together by restituting the marital tie. After investigation the police had submitted charge-sheet against the present petitioner on 26th January, 2026.

Mr. Mukherjee, appearing on behalf of the petitioner further submits that the allegations levelled in the complaint are absurd and omnibus in nature. It has been lodged after a gross unexplained delay of about 9 years. The allegations made in the FIR as well as materials collected during investigation even if they are taken at their face value and accepted in its entirety, they do not prima facie constitute offence as alleged in the complaint and, therefore, further continuance of the impugned proceeding would be nothing but a mere abuse of the process of the Court.

Having heard learned Counsel for the petitioner, the application stands admitted.

Petitioner is directed to serve a copy of application upon the State through the office of Public Prosecutor, High Court, Calcutta and upon opposite party no.2 through speed post intimating next date of hearing and to file affidavit of service on the returnable date.

Let the matter be listed in the Monthly List of June, 2026.

Petitioner prays for an interim stay of the impugned proceeding.

Having heard learned Counsel for the petitioner and that the petitioner has made out an arguable case which requires adjudication on merit, let all further proceeding of G.R. Case No.4467 of 2026 presently pending before learned Chief Judicial Magistrate, Barasat be hereby stayed for a period of 8 weeks or until further order, whichever is earlier.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court, Calcutta.

(Dr. Ajoy Kumar Mukherjee, J.)