

25.

Ct.29

CRR 3661 of 2025

21.08.2026

Bd.

Subrata Sarkar & Anr.

Vs.

State of West Bengal & Anr.

Mr. Malay Bhattacharya

Mr. Subhrojyoti Ghosh ...for the petitioners.

Mr. Arnab Chatterjee

Mr. Avik Ghosh ... for the opposite party no. 2.

Mr. Sagar Saha

Ms. Nayana Mukhopadhyay ...for the State

Status report filed on behalf the State dated 17.08.2026 is taken on record.

In this application petitioners have prayed for quashment of the proceeding being No. 591 of 2022 dated 30.09.2022 under section 498A of the Indian Penal Code corresponding to GR Case No. 2655 of 2022 presently pending before learned Judicial Magistrate, Bangaon, North 24 Parganas.

The said criminal proceeding has been initiated on the basis of a written complaint lodged by the opposite party no. 2 herein stating *inter alia* that she was married with the petitioner no. 1, but since after her marriage she was subjected to torture both physically and mentally with a demand of dowry. On 14.03.2022, the accused persons assaulted the complainant mercilessly and she was driven out from the matrimonial home after snatching her stridhan property.

Being aggrieved by the aforesaid proceeding, learned counsel for the petitioner submits that the opposite party no. 2 alleged in the written complaint continuous physical and mental torture by the petitioners herein since inception of marriage but turned up with mere general allegations of harassment after approximately 12 years of marriage without pointing out the offending acts committed by the petitioners. Moreover, the injury report issued by the medical officer on 27.08.2022 also specified that no significant injury was sustained by the opposite party no. 2 due to assault allegedly inflicted by the petitioners. She submits that the instant criminal case has been lodged by the opposite party no. 2 for misusing police machinery to harass the husband without any specific allegation of cruelty committed by the petitioners. The allegations leveled against the petitioners are of general, omnibus allegations in nature and also no specific overt act has been attributed against any of the petitioners. Therefore, further continuance of the impugned proceeding against the present petitioners would be mere abuse of the process of the court.

Learned counsel for the opposite party no. 2 submits that there are sufficient incriminating materials against the present petitioners and it is not a fit case and the proceeding is liable to be quashed. Moreover, he has also challenged the maintainability of the application and contended that the petitioner no. 1 accused has sworn an affidavit before the court but section 4 of the Oaths Act, 1969 enunciated that : an Oaths or affirmations to the accused persons in a criminal proceeding shall be rendered as

unlawful unless he is examined as a witness for the defence, or unless it is necessary to the official interpreter of any Court after he has entered on the execution of the duties of his office, and oath or affirmation that he will faithfully discharge his duties. Therefore, he prayed that the instant criminal revisional application is liable to be dismissed.

Learned counsel for the State placed the case diary and submits that during investigation incriminating materials have been collected and as such this is not a fit case where the proceeding is liable to be quashed invoking this Court's jurisdiction under section 528 of the BNSS.

I have considered the submissions made on behalf of the parties and also I have gone through the materials collected during investigation. It appears that during investigation police has recorded statement of three neighbours who have stated that petitioner no. 1 herein/husband has inflicted torture upon the victim for bringing money from her paternal house and ultimately on 14.07.2022 after physically assaulting her drove her out from her matrimonial home. The injury report collected during investigation also discloses that victim has stated before the doctor about physical assault by her husband at about 2.00 p.m. on 14.03.2023.

It is settled principle of law that at this stage the Court is not warranted to embark on a mini trial to weigh the version of the witnesses and to quash the proceeding. Whether the evidence is fully incompatible with medical evidence is a matter of trial and cannot be a ground to terminate prosecution at the initial stage. It

has been specifically stated by the witnesses that the torture was inflicted upon the victim by the petitioner no. 1 demanding dowry and the injury report also discloses that she was subjected to physical torture by her husband. The role of the husband has been prima facie attributable from the materials collected during investigation. Therefore, I find that this is not a fit case for quashment of the proceeding against the husband/petitioner no. 1.

However, the allegation against the petitioner no.2, mother-in-law that she acted in concert and conjointly with the petitioner no. 1 in committing the offence of cruelty has not been substantiated during investigation and it has not been demonstrated as to the exact role played by the mother-in-law/petitioner no. 2 in the alleged offence of cruelty.

Therefore, the proceeding being 591 of 2022 presently pending before learned Judicial Magistrate, Bangaon, North 24 Parganas, is hereby quashed qua the petitioner no. 2, **Malati Sarkar** only. However, prayer for quashment by the petitioner no. 1, **Subrata Sarkar** stands dismissed.

CRR 3661 of 2025 thus stands disposed of.

However, this order will not prevent the petitioner no. 1 to agitate all his grievances before the trial court at the time of charge hearing.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)

