

In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Criminal Revisional Jurisdiction

Present:

The Hon'ble Justice Md. Shabbar Rashidi

CRR 100 of 2024

With

CRAN 5 of 2025

With

CRAN 7 of 2026

Md. Salamuddin & Ors.

Vs.

State of West Bengal & Anr.

For the petitioners : Mr. Bhaskar Roy Mahasaya, Adv.
Mr. Bappa Dutta, Adv.
Ms. Taniya Bhowmik, Adv.

For the State : Mrs. Panchali Deb Sikder (Nag), Ld. Sr. Govt.
Adv.
Mr. Gobinda Saha, Adv.
Mr. Shyamal Barman, Adv.

Heard On : 24.07.2026

Judgment On : 28.07.2026

Md. Shabbar Rashidi, J.:-

1. The instant revisional application has been filed on behalf of some of the accused persons in Sessions Case No. 58 of 2022 arising out of Pradhan Nagar Police Station Case No. 837 of 2021 dated October 15, 2021.

2. The petitioners have challenged an order passed by learned Additional Sessions Judge, Fast Track Court, Siliguri on January 9, 2024 in the aforesaid Sessions case.

3. By the aforesaid order, an application filed on behalf of the petitioners seeking discharge of accused Nos. 2 to 4 in Sessions Case No. 55 of 2022 was refused by the learned Trial Court.

4. By filing the instant revisional application, the petitioners being accused Nos. 2, 3 and 4 in Sessions Case No. 55 of 2022 have challenged the order dated January 9, 2024 seeking their discharge. At the same time, the petitioners have also sought for quashing of charge-sheet being Charge-sheet No. 01 of 2022 dated January 10, 2022 submitted under Section 498A of the Indian Penal Code (for short, the 'I.P.C.') read with Sections 3/4 of the Dowry Prohibition Act (for short, the 'D.P. Act') as well as under added Section 304B of the I.P.C.

5. It is submitted by learned Advocate for the petitioners that accused No. 1, who happens to be the son of petitioner Nos. 1 and 2 and brother of petitioner Nos. 3 and 4 was married to the victim. It has been submitted on behalf of the petitioners that the petitioners are residents of Bihar and they used to reside at Bihar. Petitioner No. 3 also resided at Bihar in her matrimonial house. According to the case made out by the prosecution, the victim was allegedly subjected to torture by her husband and the petitioners, i.e., in-laws on demand of

further dowry. Ultimately, the victim tried to commit suicide by setting her ablaze. Victim was taken to hospital for her treatment where she succumbed to her injuries.

6. Learned Advocate for the petitioners also submitted that so far as the case of the prosecution as made out in the First Information Report (F.I.R.) as well as the materials collected in the case diary are concerned, no allegations whatsoever have been made as against the present petitioners. The petitioners have been falsely implicated in the case and roped in being the in-laws of the victim.

7. Learned Advocate for the petitioners further submitted that initially, the victim used to reside with accused No. 1, as husband and wife. Thereafter, owing to certain disputes, there was a village salish and the victim and her husband were allotted separate residence. Since then, the victim and accused No. 1 have been residing in separate residents. Subsequently, the victim and accused No. 1 shifted to the father's house of the victim where the victim set her ablaze and, ultimately expired. Learned Advocate for the petitioners also submitted that no allegations of any overt act have been labelled against the petitioners. Nevertheless, inspite of having no iota of evidence collected in course of investigation of the case, a charge-sheet has been filed against the petitioners. Learned Advocate for the petitioners also referred to an information petition filed by petitioner No. 1 at Vaishali District in Bihar which was registered as Information Petition No.

1952 of 2021. It was submitted that from the contents of such information petition, it was evident that the victim lady and her husband had left the place of the petitioners and started living at Siliguri at the house of the de-facto complainant. The petitioners sought for the following reliefs:-

“a. to issue a Rule calling upon the Opposite Parties to show cause as to why the Charge Sheet being Charge Sheet No. 01/2022 dated 10.01.2022, for alleged offence punishable Under Section 498A of the Indian Penal Code read with Section 3 & 4 of Dowry Prohibition Act, and adding Section 304B of the Indian Penal Code, arising out of Pradhan Nagar Police Station Case No. 837 of 2021 dated 15.10.2021 should not be quashed, call for the records of the case and after perusing the same and hearing the parties, and considering the cause that may be shown make the rule absolute, or pass such other or further order or orders as to Your Lordship may deem fit and proper;

b. to set aside the Order dated 09.01.2024 passed by the Learned Additional Sessions Judge, Fast Track Court, Siliguri in Sessions Case No. 58/2022;

c. pending the hearing of the instant application, Your Lordship may further please to stay further proceedings Sessions Case No. 58 of 2022 arising out of Pradhan Nagar Police Station Case No. 837 of 2021 dated 15.10.2011 pending before the Learned Additional Sessions Judge, Fast Track Court, Siliguri”

8. On the other hand, learned Advocate representing the State of West Bengal referred to various materials in the case diary. It was submitted by learned Advocate for the State that a complaint under Section 498A of the I.P.C. read with Section 3/4 of the D.P. Act was

lodged against the petitioners as well as the husband of the victim lady. Such case was registered as Pradhan Nagar Police Station Case No. 837 of 2021 dated October 15, 2021. Police investigated the case and submitted charge-sheet against the petitioners as well as the husband of the victim lady who is accused No. 1 in the sessions case. The case was committed to the Court of Sessions and at the time of consideration of charge, petitioners came up with an application seeking discharge which was refused by the learned Trial court.

9. Learned Advocate for the State also submitted that there are sufficient materials in the case diary incriminating the present petitioners. She prays for dismissal of the instant revisional application.

10. Upon service, the private opposite parties had entered appearance in the present proceedings. However, at the time of final hearing of the matter, none appeared on behalf of the private opposite parties.

11. Apparently, the victim lady was married to the son of petitioner Nos. 1 and 2. The said husband of the victim lady, namely, Md. Anish Hasmi @ Saddam was the son of petitioner Nos. 1 and 2 and brother of petitioner Nos. 3 and 4. Such marriage of the son of petitioner Nos. 1 and 2 with the victim lady was an outcome of a love affair. The present petitioners as well as the husband of the victim were residents of village- Garaul within the District of Vaishali, Bihar.

After such marriage, the victim started residing at her matrimonial house along with the present petitioners. The case made out in the F.I.R. states that the victim was subjected to torture by her husband as well as the petitioners on demand of further dowry. On the basis of the written complaint lodged by the father of the victim, a police case being Pradhan Nagar Police Station Case No. 837 of 2021 dated October 15, 2021 corresponding to G.R. Case No. 4823 of 2021 under Section 498A of the I.P.C. read with Sections 3/4 of the D.P. Act was initiated. A plain reading of the written complaint lodged by the de-facto complainant goes to show that the daughter of the de-facto complainant was married to one Md. Anish Hasmi @ Saddam a resident of Village- Garaul Main Para, P.O.- Garaul, P.S.- Garaul Dist.- Vaishali (Bihar). Such marriage was solemnized at the house of the said accused Md. Anish Hasmi @ Saddam. The F.I.R. also discloses that since her marriage, the victim was subjected to torture by her husband as well as the relatives of the husband, e.g., the present petitioners on demand of a further dowry of Rs. 20,00,000/- (rupees twenty lakhs). The written complaint also discloses that in lieu of the payment of a further dowry of Rs. 20,00,000/- (rupees twenty lakhs), there was a demand that the son of the de-facto complainant should marry petitioner No. 4. The written complaint also discloses that the petitioners as well as the husband of the victim were residents of Vaishali (Bihar). The written complaint also discloses that on October

14, 2021 at about 9:00 a.m., the husband of the victim, namely, Md. Anish Hasmi @ Saddam and the daughter of the de-facto complainant were at his house at South Ambedkar Colony ward No.1, SMC, P.S.-Pradhan Nagar. At the aforesaid date and time, the husband of the victim Md. Anish Hasmi @ Saddam inflicted torture upon the daughter of the de-facto complainant whereupon the said daughter of the de-facto complainant poured kerosene oil on her body and tried to commit suicide by setting her ablaze on the first floor of the house of the de-facto complainant. Immediately thereafter, the victim was admitted at Desun Hospital. Therefrom, she was taken to another hospital for her better treatment. In course of treatment, the victim died due to the burnt injuries.

12. Police took up investigation and on completion of such investigation submitted charge-sheet against the husband of the victim as well as the present petitioners. Thereafter, the case was committed to the Court of Sessions as charge-sheet was submitted under added Section 304B of the I.P.C. along with other Sections of law before the learned Trial Court, the petitioners filed an application seeking discharge which was refused by learned Trial Court.

13. I have gone through the materials in the case diary. According to such materials, the allegations made as against the present petitioners are that they used to inflict torture upon the victim

on demand of further dowry or, in the alternative, on a demand that the son of the de-facto complainant would marry petitioner No. 4.

14. It is not in dispute that the present petitioners as well as the husband of the de-facto complainant are residents of village-Garaul, Dist.-Vaishali, State-Bihar. It also transpires from the materials collected in course of investigation that the present petitioners all along resided at their house at Vaishali in Bihar. There is no material in the case diary that the petitioners ever visited the house of the de-facto complainant in West Bengal at any point of time. The materials collected in the investigation as well as the charge-sheet clearly exhibit that the petitioners are residents of Vaishali, Bihar. The written complaint lodged by the de-facto complainant as well as the materials in the case diary do also go to show that initially the victim resided at her matrimonial house at Garaul, Vaishali but, subsequently, the victim along with her accused husband shifted to the house of the de-facto complainant i.e. father's house of the victim. Admittedly, the victim tried to commit suicide at her father's house and out of the injuries received in her attempt to commit suicide by setting her ablaze, the victim died in course of her treatment. The F.I.R goes to show that the victim tried to commit suicide by setting her ablaze on October 15, 2021. She was married to accused Md. Anish Hasmi @ Saddam two years prior to such incident. The victim expired after

prolonged treatment at Desun Hospital and, thereafter, at North Bengal Medical College & Hospital on October 28, 2021.

15. So far as the order passed by learned Additional Sessions Judge is concerned, the prayer of the petitioners seeking discharge from the criminal case appears to have been refused by the learned Trial Court. The learned Trial Court upon going through the evidence recorded under Section 161 of the Code of Criminal Procedure, 1973 (for short, the 'Cr.P.C.') set out that at the time of consideration for prayer of discharge, the evidence collected in the course of investigation is to be taken as true and correct for such purpose. It is on such basis, the learned Trial Court refused to discharge the petitioners from the criminal case i.e., Sessions Case No. 58 of 2022 arising out of Pradhan Nagar Police Station Case No. 837 of 2021 dated October 15, 2011 and observed that there were prima facie materials as against the petitioners that they meted out torture upon the victim.

16. I have also gone through the evidence of witnesses recorded under Section 161 of the Cr.P.C. It transpires that the petitioners are alleged to have committed offence under Section 498A of the I.P.C. as well as Sections 3/4 of the D.P. Act. Section 498A of the I.P.C. reads as follows:-

"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.”

17. In order to constitute an offence under Section 498A of the I.P.C., the accused is required to be the husband or relative of husband of a woman and such person must have subjected the woman to cruelty. Cruelty, for the purpose of Section 498A of the I.P.C., has been defined in the explanation. So far as the evidence of the witnesses from the matrimonial house of the victim recorded under Section 161 of the Cr.P.C. is concerned, it appears that neither of the petitioners has been named in such statement. Furthermore, the F.I.R. in connection with the case was lodged on October 15, 2021. It states that the alleged incident was happened on October 14, 2021. It is not disputed that at that time, the victim and her husband used to reside at the house of the de-facto complainant. Although, the written complaint lodged by the de-facto complainant discloses certain allegations against the petitioners with regard to the demand of dowry. Admittedly, at the relevant point of time, petitioners were not living

with the victim. They are the residents of district Vaishali of Bihar. Though, allegations have been made that the present petitioners used to inflict torture upon the victim but there appears no contemporary complaint over such incident. The marriage of the victim with the son of present petitioner Nos. 1 and 2 was solemnized two years prior to the incident and that too, the same was an outcome of a love affair between them. As noted above, at the time of the incident, the victim was residing at her father's house with her husband. The written complaint discloses that on the date of incident, she tried to commit suicide by setting her ablaze due to the torture inflicted by her husband.

18. Furthermore, the materials collected during investigation also disclose that the incident took place on October 14, 2021 and the victim expired after prolonged treatment on October 28, 2021. While the victim was undergoing treatment, her dying declaration was also recorded. A bare perusal of the dying declaration of the victim so recorded also goes to show that the victim never named the present petitioners for the torture inflicted upon her by the petitioners prior to the date of incident.

19. Therefore, on the basis of discussions made hereinbefore and in view of the investigation conducted in connection with the case being Pradhan Nagar Police Station Case No. 837 of 2021 dated October 15, 2011 and materials collected in such investigation, I am of

the view that there are no materials to proceed against the present petitioners who happen to be the parents of the principal accused, i.e. petitioner Nos. 1 and 2. Petitioner No. 3 is the married sister and petitioner No. 4 is the unmarried sister of the principal accused. In consideration of the kind of materials collected against the present petitioners during the investigation, the prosecution of the present petitioners would be a sheer abuse of the process of the Court.

20. Consequently, prayer of the petitioners is allowed.

21. The charge-sheet under Section 498A of the I.P.C read with Section 3/4 of the D.P. Act as well as under added Section 304B of the I.P.C. submitted in connection with Pradhan Nagar Police Station Case No. 837 of 2021 dated October 15, 2011 is hereby quashed so far as the present petitioners are concerned.

22. The instant criminal revisional being **CRR 100 of 2024** is, accordingly, **disposed of**. Connected application(s), if any, shall stand disposed of. Stay order, if any, also stands vacated.

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

(Md. Shabbar Rashidi, J.)