

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. No. 1707 of 2025

Maya Saha @ Maya Rani Saha & Ors.

Versus

The State of West Bengal & Another

WITH

CRR 1448 of 2020

Rita Saha & Ors.

Vs.

The State of West Bengal & Anr.

For the Petitioners : Mr. Sudipto Maitra, Ld. Sr. Adv.
Mr. Vijay Verma, Adv.
Mr. Dwaipayan Biswas, Adv.
Mr. Avik Bhattacharya, Adv.

For the State : Mr. Sankalpa Bhattacharjee, Adv.

Heard on : 25.08.2026

Judgment on : 12.10.2026

Uploaded on : 12.10.2026

Ajay Kumar Gupta, J.:-

1. The petitioners/accused persons filed the instant Revisional application under Section 482 of the Code of Criminal Procedure, 1973 (In Short, 'Cr.P.C.') seeking quashing of the proceeding and the impugned Charge Sheet No. 457/17 dated 26.05.2017 submitted for commission of offence punishable under Sections 417/494/498A/376/406/120B of the Indian Penal Code, 1860 read with Sections 3 and 4 of the Dowry Prohibition Act in connection with G.R. Case No. 213 of 2015 arising out of Raigunj Police Station Case No. 134 of 2015 dated 08.02.2015 pending before the Learned Chief Judicial Magistrate, Raigunj, Uttar Dinajpur.
2. The brief facts of the case, relevant for the purpose of disposal of this case, are that the petitioners along with others were arraigned as accused persons in connection with Raigunj Police Station Case No. 134 of 2015 dated 08.02.2015 for alleged commission of offence punishable under Sections 417/494/498A/376/406/120B of the Indian Penal Code, 1860 read with Sections 3 and 4 of the Dowry Prohibition Act on the basis of a purported written complaint lodged by opposite party no.2/victim lady.
3. According to the written complaint, the opposite party no. 2 alleged, *inter alia*, that the principal accused, Mr Subrata Saha @ Goutam Saha, while attending a training at the Fire Brigade in

Raigunj, became acquainted with the family of the opposite party no. 2. He falsely claimed to be unmarried and, on the pretext of marriage, developed physical relations with her. Ultimately, their marriage was arranged on 24th November, 2014. However, after marriage, the accused persons became furious and started torturing her in many ways.

4. The complainant later came to know from a family member of the accused that he was already married and had two children. When she asked her husband about such facts, he tried to kill her and threatened her not to open her mouth. She returned to her parental home on 31.01.2015 and disclosed the fact to her parents. Subsequently, she lodged a written complaint, which resulted in registration of FIR being Raigunj Police Station Case No. 134 of 2015 dated 08.02.2015 under Sections 417/494/498A/376/406/120B of the Indian Penal Code, 1860 read with Sections 3 and 4 of the Dowry Prohibition Act, and investigation was initiated against Subrata Saha and other accused persons.
5. After culmination of investigation, a Charge Sheet No. 457/17 dated 26.05.2017 under Sections 417/494/498A/376/406/120B of the Indian Penal Code, 1860 read with Sections 3 and 4 of the Dowry Prohibition Act has been submitted against the petitioners herein and others.

6. The principal accused, who happened to be the husband of the complainant, expired; as such, his case has resulted in closure, as it has abated.
7. There is no whisper of involvement of the present petitioners in connection with any of the allegations alleged to have been committed by the present petitioners in the said complaint or even charge sheet.
8. The petitioners have been falsely entangled as accused persons in the instant proceedings with some ulterior motive by fabricating facts and making frivolous and baseless allegations, and therefore seek quashing of the proceedings against them to secure the ends of justice and also to prevent abuse of process of law.
9. Mr. Maitra, learned senior counsel appearing along with other counsel for the petitioners, vehemently argued and submitted that the present petitioner nos.1, 2, and 3 are sisters and Petitioner no.4 is the brother-in-law of the deceased husband. All are innocent and in no way connected with the allegations levelled against them by the de facto complainant. The offences punishable under Sections 417/494/376/406/120B of the Indian Penal Code, 1860 read with Sections 3 and 4 of the Dowry Prohibition Act are not attracted against the present petitioners because no specific allegations are attributed specifically to any of the present petitioners.

- 10.** Learned senior counsel further submitted that the FIR was lodged on 8th February, 2015 without explaining the delay, despite the marriage having taken place on 24th November, 2014, and she left her matrimonial home on 31st January, 2015 and went to her parental house for her own. The present petitioners never interfered with their day-to-day conjugal life, nor did they play any role in their marriage.
- 11.** It was further submitted that though the allegations made in the written complaint indicate that the petitioners herein had assaulted the de facto complainant during her stay at the matrimonial home, no particulars about the date, time and manner of assault were specified in the complaint itself. Hence, the proceedings against the petitioners should not be allowed to continue; otherwise, it would be a sheer abuse of the process of law, and for securing the ends of justice, the petitioners' case may be quashed; otherwise, they would suffer irreparable loss and injury due to such illegal and frivolous proceedings.
- 12.** Additionally, it was submitted that the Learned Magistrate took cognizance mechanically and whimsically against the petitioners without going through the materials available in the charge sheet. The charge sheet contained only general and vague allegations and was filed without proper investigation and purportedly filed against the Petitioners.

13. Learned counsel has placed reliance on the following judgments in support of his arguments as under: -

i. *Vinod Kumar, IAS v. Union of India*¹;

ii. *Dr. Hiralal Konar and Anr. v. State of West Bengal*²;

iii. *Uma Maheshwari and Anr. v. The State and Anr.*³.

14. Despite good service, none appeared on behalf of the opposite party no. 2, nor has any accommodation been sought.

15. Learned counsel appearing on behalf of the State produced the case diary and further vehemently opposed the prayer of the petitioner. He further submitted that previously, the petitioners had filed another Revisional application being CRR 1448 of 2020 challenging the proceedings as well as the order issuing warrant, proclamation and attachment, but after hearing the parties and perusal of the materials available on the record, the co-ordinate bench of this Hon'ble High Court set aside the order of proclamation and attachment as it was issued by the Trial Court without maintaining correct procedure prior to issue to the same. However, the Revisional application was disposed of by the same order, observing therein that the court is of the opinion that the case is not a fit case for interference for termination of the proceedings. Therefore, this second Revisional application, even

¹ 2021 (3) AICLR 777 (SC)

² 2025 (4) AICLR 170 (Cal.)

³ 2026 (2) AICLR 121 (SC)

filed under Section 482 of the Cr.P.C. praying for quashing of the proceedings, is not at all maintainable in law and the same is liable to be dismissed.

16. The learned counsel has placed reliance on a decision in the case of ***M.C. Ravikumar Vs. D.S. Velurugan***,⁴ particularly paragraph nos.15 and 16, as well as ***Bhisham Lal Verma v. State of Uttar Pradesh***⁵ in support of his contention that the second Revisional application cannot be allowed; otherwise, it would override a specific bar laid down by other provisions of Cr.P.C. The High Court is not empowered to review its own decision or co-ordinate bench. The earlier Revisional application was disposed of on its own merits, and furthermore, there is no change in circumstances in the present case.
17. Learned counsel further submitted, in the alternative, that during investigation, sufficient materials were collected against them from the available witnesses. The statement recorded under Section 161 of the Cr.P.C. prima facie indicates the involvement of the petitioners in the alleged offence although some of the sections are not applicable against them.
18. It was further submitted that the petitioners had played a vital role in arranging the marriage of her brother, though they were well-known that he had earlier married and had two children. By

⁴ **2025 INSC 888**

⁵ **SLP (Crl.) No. 7976 of 2023**

suppressing the fact, they organised their marriage. The Investigating Officer found a prima facie case establishing charges under Sections 417/498A/406/120B of the Indian Penal Code, 1860 read with Sections 3 and 4 of the Dowry Prohibition Act and accordingly a charge sheet has been submitted against the present petitioners and other accused persons. Therefore, this Criminal Revisional application is liable to be dismissed at the threshold.

- 19.** In reply, Mr. Maitra strongly objected to the submission made by the Learned Counsel regarding the contention of non-maintainability of the case. He contended that the earlier application was filed originally challenging the order of proclamation and attachment, and after hearing, the Hon'ble Court set aside the order of proclamation and attachment as it was issued against the petitioners without following the real provision as mentioned in Section 82 of the Cr.P.C. The Co-ordinate Bench, at that point of time, without proper assessment and consideration, in general terms held that the case is not a fit case for interference for termination of the proceedings. In this context of maintainability, Ld. Counsel has relied upon the decision in the case of **Anil Khadkiwala v. State (Government of NCT of Delhi) and Anr.**⁶ particularly paragraph nos. 7, 8, and 9 thereof.

⁶IT 2019 (8) SC 16

- 20.** Learned Sr. Counsel relied upon a judgment passed by this court in CRR No. 3186 of 2022 filed by one of the other sisters of the deceased husband and, after hearing the parties and thorough perusal of the case diary and materials therein, quashed the proceeding as far as another sister, namely Basanti Saha, noting therein that no specific role was attributed against the sister of the deceased husband. The allegations are general, omnibus, vague as well as bereft of details about the date, time and manner of alleged torture or inducement; as a result, it is impossible to ascertain the role of each accused person in the commission of the offences as alleged to prove their guilt and punish.
- 21.** It was further submitted that second and subsequent application under Section 482 of the Cr.P.C. is indeed maintainable as it confers a wide inherent power to the High Court to do justice, when it appears the earlier order passed by the Co-ordinate Bench was unreasoned and without properly consideration of actual facts. The second application under section 482 of the Cr.P.C. can be filed, and there is no bar, in case the facts so justify.
- 22.** At present, the moot question that arises before this court is whether this second Revisional application filed under Section 482 of the Cr.P.C. can be entertained, when co-ordinate of this court rejected prayer of the petitioners for quashing of the proceeding being G.R. Case No.213 of 2015 after filing charge sheet under

Section 417/494/498A/376/120B/406 in a previous application filed the same petitioners under Article 227 of the Constitution of India read with section 482 of the Code of Criminal Procedure, 1973 on 10.05.2022?

- 23.** Having heard the arguments and submissions made by the respective parties as well as coming to the facts of the present case, this court would like to look the provision of Sections 482 and 362 of the Cr.P.C. for the purpose of fair and proper disposal of this case.

“482. Saving of inherent powers of High Court.—Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

362. Court not to alter judgment.—Save as otherwise provided by this Code or by any other law for the time being in force, no Court, when it has signed its judgment or final order disposing of a case, shall alter or review the same except to correct a clerical or arithmetical error.”

- 24.** Section 482 of the Cr.P.C. saves the inherent powers of the High Court to give effect to any order under the Code, in order to prevent abuse of the process of any court, and to secure the ends of justice. It does not confer a new jurisdiction. It preserves one that exists, and it cannot be invoked in a manner that conflicts with an express bar elsewhere in the Code or defeats the finality that the Code attaches to judicial orders.

- 25.** Section 362 of the Cr.P.C. provides that, save as otherwise provided by the Code or any other law for the time being in force, no Court, when it has signed its judgment or final order disposing of a case, shall alter or review the same except to correct a clerical or arithmetical error. The provision embodies the settled principle that a Court becomes *functus officio* once it has disposed of a matter, and it applies to the High Court exercising criminal Revisional or inherent jurisdiction.
- 26.** The learned counsel for the State relied on ***M.C. Ravikumar v. D.S. Velmurugan (Supra)***, wherein the Court held that even though there is no sweeping rule that a second petition is barred, the maintainability of the same depends on the facts of each case, with the onus to show a change in circumstances on the person filing the subsequent petition.
- 27.** The State also relied on ***Bhisham Lal Verma v. State of Uttar Pradesh (Supra)***, wherein it was held that allowing successive petitions would enable an ingenious accused to stall proceedings by filing one petition after another, irrespective of when the cause arose.
- 28.** The petitioners relied on ***Anil Khadkiwala v. State (Supra)***, which was a complaint case, in which the Supreme Court held that the second application could not be held non-maintainable merely because of the dismissal of the earlier one. ***Vinod Kumar***

(Supra) relied upon by the Petitioner, holds a similar view. The decision therefore does not support the Petitioner, given that it was clearly established in these cases that maintainability would be considered only on production of fresh material that was not produced before the Court earlier.

- 29.** On the whole, the authorities cited by both sides indicate that a successive application may be entertained only where the earlier application was not adjudicated on merits, such as where it was withdrawn, dismissed as not pressed, or disposed of on a limited ground. It may also be entertained where a subsequent change in circumstances, whether factual or legal, gives rise to a fresh cause of action not available earlier. It is not entertained merely because the petitioner regards the earlier decision as erroneous or wishes to urge afresh what was or could have been urged before.
- 30.** It is not disputed that the earlier application was filed by the same petitioners, that it challenged the same proceeding, G.R. Case No. 213 of 2015, and that it was heard in the presence of the parties on perusal of the materials on record in the charge sheet as available in the case diary. The coordinate Bench set aside the order of proclamation and attachment because the procedure prescribed under Section 82 of the Cr.P.C. had not been followed. It then recorded its opinion that the case was not a fit one for interference for termination of the proceeding. That was a

considered refusal of the prayer for quashing on merits, not a disposal without adjudication, and the earlier application was not withdrawn or dismissed as not pressed.

- 31.** This Court shall next consider whether any change in circumstances has been shown. The death of the principal accused abates the proceeding against him alone. It does not alter the case against the present petitioners, who were arraigned in their own right and whose position was before the coordinate Bench, when it passed its order.
- 32.** Reliance was also placed on the order of this Court in CRR No. 3186 of 2022, by which, proceeding against a co-accused, Basanti Saha, was quashed, which was passed on its own facts in an application by a different petitioner. It is not a change of law, and it is not a change in the petitioners' own circumstances. To accept it as a ground for re-opening the earlier decision would require this Court to compare the cases of the respective accused persons and re-assess the materials against them, which is the very exercise the earlier order has already foreclosed for these petitioners.
- 33.** The grounds urged on merits are that the allegations are omnibus and vague, that the delay in lodging the FIR is unexplained, and that cognizance was taken mechanically. However, since the application fails at the threshold, this Court expresses no opinion

on any of them, nor on the contentions of the State concerning the materials in the case diary.

34. In view of the foregoing, the Court holds that the instant application under Section 482 of the Cr.P.C., seeking quashing of the same proceeding that was the subject of the earlier application between the same parties, which was heard and refused on consideration of the materials on record, is indeed not maintainable. No new ground has been shown on which the coordinate Bench's order may be re-opened. Re-opening of previous judgment delivered by the Co-ordinate Bench of this Hon'ble High Court on merits upon perusal of case diary is strictly prohibited by specific provision under Section 362 of the Cr.P.C., when statute specifically bars to review the judgment even in exercising inherent jurisdiction of High Court forbid to interfere with the same.
35. Accordingly, **CRR 1707 of 2025** is, thus, **dismissed**. Connected applications, if any, are also, thus, disposed of.
36. Insofar as CRR 1448 of 2020 is concerned, it was already disposed of on 10th May, 2022 by this Court; therefore, there is no need to pass any order.
37. Consequently, the proceedings and the impugned Charge Sheet No. 457/17 dated 26.05.2017 for alleged commission of offence punishable under Sections 417/494/498A/376/406/120B of the

Indian Penal Code, 1860 read with Sections 3 and 4 of the Dowry Prohibition Act in connection with G.R. Case No. 213 of 2015 arising out of Raigunj Police Station Case No. 134 of 2015 dated 08.02.2015 pending before the Learned Chief Judicial Magistrate, Raigunj, Uttar Dinajpur will continue insofar as the petitioners are concerned.

- 38.** In view of submissions made by the Ld. Senior Counsel, Mr. Maitra, the Petitioners would be at liberty to file an application for discharge from the proceedings pending before the Ld. Trial Court, if so advised, and the same may be disposed of by the Trial Court without being influenced by any of the observations made by this Court in accordance with law and the same may be disposed of as expeditiously as possible without granting unnecessary adjournment to the parties.
- 39.** Let a copy of this Judgment be sent to the Learned Court below for information.
- 40.** Interim order, if any, stands vacated.
- 41.** Case Diary, if any, be returned to the learned counsel for the State.
- 42.** Parties shall act on the server copies of this Judgment uploaded on the official website of this Court.

- 43.** Urgent photostat certified copy of this Judgment, if applied for, is to be given as expeditiously to the parties on compliance of all legal formalities.

(Ajay Kumar Gupta, J.)

P. Adak (P.A.)