

HIGH COURT OF CALCUTTA**Bench: Hon'ble Justice Uday Kumar****Date of Decision: 24th May 2024**

CRIMINAL REVISIONAL JURISDICTION

CRIMINAL REVISION PETITION NO. 110 OF 2017

CRIMINAL APPLICATION NO. 1 OF 2017

(Old No. CRAN 5048 of 2017)

SANDIPAN MUKHERJEE ...PETITIONER**VERSUS****THE STATE OF WEST BENGAL & ANR. ...RESPONDENTS****Legislation:**

Sections 498A, 406 of the Indian Penal Code, 1860 (IPC)

Sections 482, 401 of the Code of Criminal Procedure, 1973 (Cr.P.C.)

Section 13B of the Hindu Marriage Act, 1955

Subject: Criminal revision application for quashing of Shibpur Police Station Case No.1261 of 2013 and corresponding G.R. Case No. 10076 of 2013 pending before the learned 5th Judicial Magistrate, Howrah, following a mutual divorce settlement.

Headnotes:

Criminal Law – Quashing of FIR and Charge-Sheet – Revisional application under Sections 482 and 401 Cr.P.C. – Petitioner's marriage dissolved by mutual consent under Section 13B of the Hindu Marriage Act, 1955 – Continuation of criminal proceedings under Sections 498A/406 IPC deemed abuse of process – High Court's inherent powers invoked to prevent miscarriage of justice – FIR and charge-sheet quashed. [Paras 1-36]

Matrimonial Disputes – Settlement – High Court's inherent powers – Analysis – Held – Parties resolved matrimonial disputes and obtained mutual consent divorce – Continuation of criminal proceedings counterproductive – Legal

precedent supports quashing in cases of amicable settlements in matrimonial disputes. [Para 34-35]

Decision – Quashing of Criminal Proceedings – Court quashes FIR and charge-sheet against petitioner, citing abuse of process and resolution of matrimonial issues through mutual consent divorce – Recognizes necessity of applying inherent powers to prevent injustice. [Para 36-40]

Referred Cases:

- B.S. Joshi v. State of Haryana, (2003) 4 SCC 675
- Gian Singh v. State of Punjab & Anr., (2012) 10 SCC 303
- Jitendra Raghuvanshi & Ors. V. Babita Raghuvanshi & Anr., (2013) 4 SCC 58
- K. Srinivas Rao v. D.A. Deepa, (2013) 5 SCC 226
- State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335
- State of Karnataka v. M. Devendrappa, (2002) 3 SCC 89

Representing Advocates:

Mr. A. Bhattacharya for the Petitioner

Mr. Debasish Roy, Ld. PP, and Mr. Anand Keshari for the State

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UDAY KUMAR, J.: –

1. This revisional application has been preferred under Section 482 read with 401 of Code of Criminal Procedure 1973, (hereinafter referred to as Cr.P.C.) for quashing of the Shibpur Police Station Case No.1261 of 2014 dated 12.12.2013 and charge-sheet being No.29/15 dated 07.01.2015 filed under Sections 498A/406 of the Indian Penal Code, 1862 (hereinafter referred to as I.P.C.) corresponding G.R. Case No. 10076 of 2013 pending before the learned 5th Judicial Magistrate, Howrah, on the ground that the continuance of this criminal proceeding will amount to abuse of the process of court after grant of decree of divorce on mutual consent and in light of the prayer for

quashing the criminal proceedings made by his mother-in-law Sampa Mukherjee, on affidavit, in CRAN 1 of 2017 (Old No. CRAN 5048 of 2017).

2. The facts as frescoed in the revisional application are that the petitioner Sadndipan Mukherjee and other party No. 2 Mou @ Moumita Mukherjee (Samanta) are husband and wife. Their marriage was solemnized on 03rd March, 2013, as per Hindu rites and customs, and it was duly consummated by cohabitation. Due to temperamental differences, she abandoned her matrimonial home on 12th December, 2013, taken shelter at her father's house and she lodged a written complaint to the Officer-in-Charge of Shibpur Police Station, in one go, wherein she alleged that petitioner used to abuse her in intoxicated condition, tortured her physically and mentally and compelled her to bring money from his father's house, upon which Shibpur Police Station Case No.1261 of 2013 dated 12.12.2013 under Sections 498A/406 was started against the petitioner. After investigation, it was charge-sheeted vide No.29/15 dated 27.01.2015 under Sections 498A/406 of IPC to the Ld. C.J.M Howrah, who had taken cognizance of the offences, thereupon. As a result, GR Case being No.10076 of 2013 under Sections 498A/406 of I.P.C, was started therefrom. This case is still pending for recording of evidence and witness of complainant O.P 2 before learned Judicial Magistrate, 5th court Howrah, as it appears from the status report submitted by Ld. Counsel for the State submitted in compliance of the order and direction dated 25th January, 2024.

3. In the meantime, good sense prevailed between the parties, to come forward to settle their matrimonial discord mutually. Accordingly, they made a joint prayer for divorce on mutual ground by filing a petition under Section 13 B of the Hindu Marriage Act 1955, upon which MAT Suit No.1055 of 2015, was instituted and disposed of by the order of divorce on mutual consent granted on 23rd March, 2016 by Ld. Additional District Judge 4th Court, Howrah, whereby both parties were absolved from their all-marital obligations, liabilities and allegations. Despite that GR Case No.10076 of 2013, arising out of the allegations of O.P 2 while they were in matrimonial relationship, which had already been dissolved on mutual consent, remained pending before the learned Judicial Magistrate, 5th Court, Howrah.

4. Pendency of the said criminal proceeding despite the settlement of their matrimonial dispute, triggered the petitioner to pray for quashing of Shibpur Police Station Case No.1261 of 2013, and charge sheet chargesheet being No.29/15 dated 27.01.2015, corresponding GR Case being No.10076 of 2013 under Sections 498A/406 of I.P.C, in this revisional application.

5. Ld. Counsel for the petitioner contended that continuation of GR Case 10076 of 2013, arising out of the matrimonial dispute, even after its disposal on mutual consent granted by Ld. Additional District Judge, 4th Court Howrah in MAT Suit No.1055 of 2015 on 23rd March, 2016, amount to abuse of the process of the court because the decree of divorce on mutual consent terminated all sort of relationships and resolved all types of disputes arising out of dissolved marital bondage.

6. Therefore, he submits that since the parties have amicably resolved their differences, the continuance of the criminal case against him is mere misuse of process of the court, therefore, it would be in the interest of justice to quash the GR Case No.10076 of 2013 by applying inherent power of this court.

7. To fortify his contention, he referred the contention of OP made in CRAN 1 of 2017.

8. Per contra learned Counsel for the O.P-1 State submits that in compliance of the order dated 16th January 2017 of Hon'ble Co-ordinate bench, one report along with a letter of O.P.2 Moumita Samanta dated 19th January, 2017, was submitted by the prosecution on 23rd January, 2017. O.P.2 has expressed her desire not to proceed with any case against the petitioner in said letter.

9. Ld. Counsel further submits that Sampa Mukherjee made her statement on affidavit in CRAN 5048 of 2017 that both parties have decided to withdraw the GR Case No. 10076 of 2013 on compromise, as the opposite party No. 2 did not want to proceed with the instant case. An application to accept the no objection with respect to quashing of GR Case no 10076 of 2013 was filed by of OP2, on affidavit.

10. On the other hand, learned counsel for the O.P.2 submits that no joint petition for withdrawal or disposal of the GR Case No.10076 of 2013 on the ground of settlement of their matrimonial discord has been made before the Ld. Additional District Judge Court. He further states such prayer was never made by the parties in their joint petition for decree of divorce on mutual consent prayed under Section 13B of the Hindu Marriage Act 1955, nor they incorporated it in the body of their terms and conditions. Moreover, the order for decree of divorce on mutual consent, is silent on the issue of willingness of the parties to withdraw or compromise the criminal proceedings under Sections 498A/406 of the

I.P.C pending before the trial court in GR Case No.10076 of 2013. However, it appears from the status report that this case is fixed for recording of

evidence of witnesses. At this stage the prayer for quashing of FIR is not maintainable. It is inevitable to decide this case on trial.

11. Ld. Counsel further contends that the nature of the offence of 498A of IPC is made non-compoundable in Cr.P.C. No court can proceed to dispose of such non-compoundable cases on compromise petition.

12. He further stated that the inherent power of court under Section 482 of the Cr.P.C is extraordinary power of the High Court and it shall be used sparingly. Therefore, he prayed for the dismissal of this petition as the same is devoid of any merit and let the criminal proceedings be disposed of on merit.

13. The seminal question involved in this revisional application to decide whether this Court can quash a non-compoundable offence under Section 498A arising out of a matrimonial dispute, after the decree of divorce on mutual consent, by invoking the power of 482 of Cr.P.C?

14. Factually, the pending GR Case No.10076 of 2013 is arising out of Shibpur Police Station Case No.1261 of 2013 on 12th December, 2013, under Sections 498A/ 406 of I.P.C, against the petitioner on the written complaint of O.P.2.-wife Mou @ Moumita Mukherjee (Samanta). This case is pending before Ld. Judicial Magistrate 5th Court, Howrah, for recording of evidence of O.P.2 despite settlement of the matrimonial dispute by the decree of divorce on mutual consent passed on 23rd March, 2016 by ADJ 4th court Howrah. Consequently, their marital bondage was dissolved on mutual terms of settlement and parties were absolved from their respective liabilities, including the petitioner from the pending criminal proceeding, because this criminal proceeding arose out of the said matrimonial relationship, as it appeared from the statements made on affidavit in CRAN 1 of 2017.

15. The nuptial tie was dissolved by the order of Ld Additional District Judge 4th court passed on 20.09.2016 in MAT Suit 1055 of 2015, as follow: -

“This is an application under Section 13B of the Hindu marriage Act filed by the parties seeking divorce on mutual consent. By filing the application the parties have contended that their marriage was solemnized on 3rd March 2013, as per Hindu rites and customs and after marriage they lived together as husband and wife and their marriage was duly consummated by cohabitation but due to difference of opinion and misunderstanding they have been living separately since 12/12/2013 i.e., more than one year and it would not be possible for them to live together as husband and wife anymore since the marriage has irretrievably broken down. They have adduced their evidence by submitting their examination in chief on affidavit. Both the

petitioners no 1 and 2 have filed photocopy of their voter id card and Adhar card respectively. (original shown and returned to the petitioners.) I also think that there is no collision or coercion in between the parties and as all the ingredients of Section 13 B of the Hindu Marriage Act 1955 have been fulfilled there is no impediment to pass an order of divorce on mutual consent. C.F. paid is correct.

Hence, it is ordered, that the application under Section 13B of the Hindu Marriage Act 1955 filed by the party's seeking divorce on mutual consent is allowed first of the marriage Solemnized on 3rd March 2013 as per Hindu writes and customs in between the parties, viz. Smt. Maumita Mukherjee (Samanta) & Sandipan Mukherjee is hereby dissolved on mutual consent from this date of order.

Let a copy of this order be given to the parties free of cost." 16. OP2 lodged her written complaint alleging the mental and physical cruelty was inflicted on her by petitioner due to said differences of opinion and misunderstandings in their matrimonial relationship, upon which this criminal case was started under Sections 498A/406 of the I.P.C. The nature of the offence under Section 498A of I.P.C is made noncompoundable, and section 406 is compoundable under the schedule of Cr.P.C. The legislature inserted Section 498 A in the I.P.C by the Criminal Law (Second Amendment) Act, 1983 (46 of 1983) with effect from 25th December, 1983, with the intention to protect the interest of weaker spouses, particularly in a male dominating society, where the condition of wife is generally pitiable, as they are subjugated to the whims and caprices of the husband. In view of seriousness of the offence and its ubiquitous impact, the legislature made this offence more stringent by making it non-compoundable. The Court has no power to compound a non-compoundable offence in any condition as there is a specific bar. As such law does not permit a Court to allow the parties to compromise a non-compoundable offence. Such conservative interpretation of law was also supported by Hon'ble Supreme Court in AIR 1981 SC 736 Para 5, Smt. Sooraj Devi v. Pyare Lal, AIR 1962 SC 1208, Sankatha Singh v. State of U. P. and AIR 1993 SC 1361: (1993 AH LJ 691) Para 4, Dharma Pal v. Smt. Ramshree. It was held that where compromise of an offence is not permissible under Section 320 Cr.P.C, permission for compromise of such offence cannot be accorded by court and the High Court cannot direct compounding of such offence in exercise of its powers under Section 482 Cr.P.C.

17. However the Hon'ble Supreme Court has given liberal interpretation of this provision in State of Karnataka Vs M. Devendrappa, (2002) 3 SCC 89, wherein a bench of three Hon'ble Judges of the Supreme Court had examined the jurisdiction of the High Court for bringing to an end a criminal action by quashing the case, inter alia, under Section 482 of Cr.P.C., in light of past precedents and observed that such jurisdiction emanated from its inherent power to bring about justice, explaining it thus: -

"6. ... It envisages three circumstances under which the inherent jurisdiction may be exercised, namely, (i) to give effect to an order under the Code, (ii) to prevent abuse of the process of court, and (iii) to otherwise secure the ends of justice. It is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with procedure can provide for all cases that may possibly arise. Courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the section which merely recognises and preserves inherent powers of the High Courts. All courts, whether civil or criminal possess, in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in course of administration of justice on the principle *quando lex aliquid alicui concedit, concedere videtur et id sine quo res ipsae esse non potest* (when the law gives a person anything it gives him that without which it cannot exist). While exercising powers under the section, the court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised *ex debito justitiae* to do real and substantial justice for the administration of which alone courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice...." 18. The scope and ambit of the power to quash a criminal proceeding conferred on the High court under Section 482 Cr.P.C., read with Article 226 and 227 of the Constitution

of India, was examined by the Supreme Court in B.S. Joshi and Ors. Vs State of Haryana and Anr., (2003) 4 SCC 675, wherein it was noted that in exercise of the "inherent" and "wholesome power", the touchstone is as to whether "the ends of justice so require", it was observed thus:

"10. ... that in a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice and that the ends of justice are higher than the ends of mere law though justice had got to be administered according to laws made by the legislature. ...that the compelling necessity for making these observations is that without a proper realization of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction."(emphasis supplied)

19. Holding that there is some "special features in matrimonial matters" and that it is "the duty of the court to encourage genuine settlements of matrimonial disputes", referring to Madhavrao Jiwajirao Scindia Vs Sambhajirao Chandrojirao Angre, (1988) 1 SCC 692, it was further observed that:

"11. Where, in the opinion of the court, chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may, while taking into consideration the special facts of a case, also quash the proceedings."

20. In B.S. Joshi v. State of Haryana, (supra), Hon'ble Supreme Court has firmly laid down the proposition that in order to subserve the ends of justice, the inherent power under Section 482 CrPC can be exercised by the High Court to quash the criminal proceedings at the instance of husband and wife who have amicably settled the matter and are desirous of putting end to the acrimony. The correctness of the aforesaid decision was, however doubted by a Division Bench of the Hon'ble Supreme Court of India in the matter of Gian Singh v. State of Punjab & Anr., 2010 (12) SCALE 461.

21. In Gian Singh (supra), while dealing with identical issues, another bench of three Hon'ble Judges of the Supreme Court observed thus: -

"55. In the very nature of its constitution, it is the judicial obligation of the High Court to undo a wrong in course of administration of justice or to prevent continuation of unnecessary judicial process. This is founded on the legal maxim quando lex aliquid alicui concedit, conceditur et id sine qua res ipsa

esse non potest. The full import of which is whenever anything is authorised, and especially if, as a matter of duty, required to be done by law, it is found impossible to do that thing unless something else not authorised in express terms be also done, may also be done, then that something else will be supplied by necessary intendment. Ex debito justitiae is inbuilt in such exercise; the whole idea is to do real, complete and substantial justice for which it exists. The power possessed by the High Court under Section 482 of the Code is of wide amplitude but requires exercise with great caution and circumspection. (emphasis supplied)” The Supreme Court contrasted the request for quashing of criminal proceedings on the basis of settlement with the possibility of compounding of an offence and observed thus: -

“57. Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 and the court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.” (emphasis supplied).

It is pertinent to note that in Gian Singh (supra), the Supreme Court held as under: -

“61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity

of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. (emphasis supplied)”

22. Hence, the matter was referred to a bench of three Hon'ble Judges (Hon'ble Justice Lodha, Hon'ble Justice Dave and Hon'ble Justice S.J. Mukhopadhyay) of the Supreme Court, in *Jitendra Raghuvanshi and Ors Vs Babita Raghuvanshi and Anr*, (2013) 4 SCC 58. It was observed therein that:

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“15. In our view, it is the duty of the courts to encourage genuine settlements of matrimonial disputes, particularly when the same are on considerable increase. Even if the offences are non-compoundable, if they relate to matrimonial disputes and the Court is satisfied that the parties have settled the same amicably and without any pressure, we hold that for the purpose of securing ends of justice, Section 320 of the Code would not be a bar to the exercise of power of quashing of FIR, complaint or the subsequent criminal proceedings.

16. There has been an outburst of matrimonial disputes in recent times. The institution of marriage occupies an important place and it has an important role to play in the society. Therefore, every effort should be made in the interest of the individuals in order to enable them to settle down in life and live peacefully. If the parties ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law, in order to do complete justice in the matrimonial matters, the courts should be less hesitant in exercising their extraordinary jurisdiction. It is trite to state that the power under Section 482 should be exercised sparingly and with circumspection only when the Court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of process of court or that the ends of justice require that the proceedings ought to be quashed...” (emphasis supplied)

23. The element of settlement of matrimonial dispute including 498A, through mediation was recognized by Hon'ble Supreme Court in *K. Srinivas Rao v. D.A. Deepa*, (2013) 5 SCC 226. It was held that :-

“39. Quite often, the cause of the misunderstanding in a matrimonial dispute is trivial and can be sorted out. Mediation as a method of alternative dispute

resolution has got legal recognition now. We have referred several matrimonial disputes to mediation centres...

44. We, therefore, feel that though offence punishable under Section 498-A of IPC is not compoundable, in appropriate cases if the parties are willing and if it appears to the criminal court that there exist elements of settlement, it should direct the parties to explore the possibility of settlement through mediation. This is, obviously, not to dilute the rigour, efficacy and purport of Section 498-A IPC, but to locate cases where the matrimonial dispute can be nipped in bud in an equitable manner. The Judges, with their expertise, must ensure that this exercise does not lead to the erring spouse using mediation process to get out of clutches of the law. During mediation, the parties can either decide to part company on mutually agreed terms or they may decide to patch up and stay together. In either case for the settlement to come through, the complaint will have to be quashed. In that event, they can approach the High Court and get the complaint quashed. If, however, they choose not to settle, they can proceed with the complaint. In this exercise, there is no loss to anyone. If there is settlement, the parties will be saved from the trials and tribulations of a criminal case and that will reduce the burden on the courts which will be in the larger public interest. Obviously, the High Court will quash the complaint only if after considering all circumstances it finds the settlement to be equitable and genuine. Such a course, in our opinion, will be beneficial to those who genuinely want to accord a quietus to their matrimonial disputes.”

24. Obviously, the High Court may quash the criminal proceedings initiated in pursuance of an FIR alleging the commission of an offence described in Section 498A of the IPC, irrespective of the fact that such an offence is non-compoundable, if the parties reach an amicable settlement. Realizing the importance of settlements of the disputes of civil flavour, the Hon’ble Supreme Court directed that the criminal courts dealing with the complaint under Section 498-A of the IPC should, at any stage and particularly, before they take up the complaint for hearing, refer the parties to mediation center, if there exist elements of settlement and both the parties are willing. However, they should take care to see that in this exercise, rigour, purport and efficacy of Section 498-A of the IPC is not diluted. It will be for the concerned court to work out the modalities taking into consideration the facts of each case.
25. Similarly, Hon’ble Supreme Court has affirmed the contention of B.S Joshi (supra) in the recent judgment of Jitendra Raghuvanshi & Ors. v. Babita Raghuvanshi & Anr. (supra), wherein it was held that, “High Court in exercise

of its inherent powers can quash the criminal proceedings or FIR or complaint in appropriate cases in order to meet the ends of justice and Section 320 of the Code does not limit or affect the powers of the High Court under Section 482 of the Code.

26. In this respect, the scope of Section 482 of Cr.P.C Hon'ble Supreme Court has given an exhaustive list of cases where inherent power should be exercised in paragraph 102 of State of Haryana V. Bhajan Lal reported in 1992 Supp (1) SCC 335, as under: -

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercising of the extraordinary power under article 226 or the inherent powers under section 482 of the Code of Criminal Procedure, the following categories of cases are given by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list to myriad kinds of cases wherein such power should be exercised:

- 1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prime facie constitute any offence or make out a case against the accused;
- 2) Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under section 156(1) of the Code except under an order of a Magistrate within the purview of section 155(2) of the Code;
- 3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against accused;
- 4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under section 155(2) of the Code;
- 5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach

a just conclusion that there is sufficient ground for proceeding against the accused;

6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act providing efficacious redress for the grievance of the aggrieved party;

7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

For quashing of criminal proceedings, the grounds for the quashing must come under any of the categories enumerated in the Bhajan Lal's case (supra). On aforesaid discussions, I may conclude that, ground 7 is satisfying here in this case.

27. In view of the above legal propositions, it has now been settled that the inherent powers under Section 482 of the Code of Criminal Procedure are required to be exercised to secure the ends of justice or to prevent abuse of the process of any court and the High Court can quash noncompoundable offences after considering the nature of the offence and the amicable settlement between the concerned parties. If the parties have compromised the matter out of court and do not want to produce evidence in view of the compromise, one has to agree that the trial of the case shall be sheer wastage of public time and an exercise in futility. However, the parties have remedy under Section 482 of the Cr.P.C.
28. The High Court is at the head of the judicial apparatus in each State with power of control and superintendence over all courts sub-ordinate to it, including criminal courts. Besides from such supervisory role conferred on the High Court, by the Constitution of India, 1950, particularly Article 226 and 227 of the Constitution of India, the Cr.P.C, 1973 also acknowledges, by Section 482, its inherent power to secure the ends of justice. Section 482 provides the "Saving of inherent powers of High Court as 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."
29. In cases where criminal court does not have the jurisdiction to entertain a request for compounding of an offence because law does not classify such

offence in that category or where there are other reasons why the request for compounding has not been entertained, a practice has grown over the years that the parties approach the High Court invoking the inherent power under Section 482 Cr.P.C. for seeking end to the criminal process on the plea that continuance thereof would be an abuse of the process of law, most of the time on the contention that the parties have amicably resolved to end the dispute.

30. The High Court may quash criminal proceedings pertaining to offences arising out of matrimonial disputes relating to dowry, etc. or the family disputes of private or personal nature, where the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim.
31. In case at hand, the dissolution of marriage on mutual consent is an admitted fact. Impliedly they agreed to resolve their discord. Everything was settled except the pending criminal proceeding. However, their intention to settle this matter appears from the letter of OP2 dated 19th January 2017 wherein she expressed her intention to not proceed in criminal case against petitioner and the statement made on affidavit in CRAN 1 of 2017 to the effect that they were willing to settle this case. It may be possible that they might skip to refer this case in the petition for divorce on mutual consent but basic intention was there to settle the entire dispute arising out of the matrimonial discord, which automatically terminated the said marital tie by the decree of divorce on mutual consent.
32. In addition to that said criminal proceeding is pending since 2013 and no witness has been examined till now. Inordinate delay in the recording of witness shows that O.P.2/ wife is not interested to proceed with this case. Moreover, the delay in prosecution otherwise, affects the merit of this case. In any event pendency of GR Case No.10076 of 2013 is insignificant particularly after settlement of their matrimonial disputes. However, OP2 has contested this revisional case, which shows her intention to harass the petitioner by using the legal proceeding as a weapon against him. Misuse of legal proceeding against a person amount to abuse the process of court which will frustrate the end of justice. In such circumstances, it is proper to take steps to prevent abuse of the process of any court, against the petitioner and to secure the ends of justice to the petitioner.

33. I think it is proper case where the inherent power of this court may be utilized to subserve the interest of justice.
34. In the light of the above deliberations, I am of the view that inherent power of court under Section 482 of Cr.P.C. can be used to quash a noncompoundable offence arising out of a matrimonial relationship, which has been dissolved by a decree of divorce on mutual consent, when the parties have expressed or implied consent to settle the disputes through compromise.
35. Accordingly, I find merit in this revisional case. The instant revisional application is allowed.
36. Taking into account the totality of facts and circumstances, G.R. Case No. 10076 of 2013 pending before the learned 5th Judicial Magistrate, Howrah arising out of the Shibpur Police Station Case No.1261 of 2014 dated 12.12.2013 under Sections 498A/406 and charge sheet no 29 of 2015 dated 27.01.2015 along with all proceedings emanating therefrom, are quashed.
37. There is no order as to the costs.
38. Accordingly, the present revisional application CRR 110 OF 2017 along with CRAN 1 of 2017 (old CRAN 5048 of 2017) are stands disposed of.
39. The interim order/s, if any, stand vacated.
40. Urgent Photostat certified copy of this judgment, if applied for, be given to the parties, as expeditiously as possible, upon compliance with the necessary formalities in this regard.

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