IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

PRESENT:

THE HON'BLE DR. JUSTICE AJOY KUMAR MUKHERJEE

CRR 5550 of 2025

Purba Chatterjee & Ors.
Vs.
The State of West Bengal & Anr.

For the petitioners	:	Mr. Antarikhya Basu Mr. Madhumita Basak, Mr. Mayurakshi Saha
For the Opposite party no.2	:	Mr. Anirban Guha Thakurata Ms. Nahid Ahmed Mr. Biswajit Ghosh
For the State	:	Mr. Sankalpa Bhattacharjee
Heard on	:	23.06.2026
Judgment on	:	25.08.2026

Dr. Ajoy Kumar Mukherjee, J.

1. A written complaint was lodged by opposite party no. 2 (in short OP no.2) herein against the petitioners *interalia* stating that the defacto complaint/OP no.2 got married to the accused no.1 (who is not the petitioner herein). The petitioner no.1 herein allegedly maintained an illicit

relationship with the said husband of OP no.2 i.e. accused no.1 since February, 2025. The petitioner no.3 and petitioner no.4 herein are the husband and the son of the petitioner no.1, whereas the petitioner no.2 is the person employed by the husband of the OP no.2. The OP no.2 in her complaint specifically alleged that she was subjected to continuous mental and physical torture by her husband for a considerable period of time. It is further alleged that all the accused persons have been engaging in systematic intimidation, coercion and extortion by demanding exorbitant amount of money under threat of physical violence. On 03.07.2025 the accused no.1 along with petitioner no.2 acting upon the instructions of the other petitioners forcibly attempted to evict the OP no.2 from her matrimonial home and in course of the incident, the husband /accused in connivance with the petitioners committed theft of the belongings and valuable items of the OP no.2 and unlawfully removed the same from her possession. All the accused persons used to visit her residence and allegedly conspired with an intention to intimidate and extort money. It is further alleged that persistent physical violence has caused grievous injuries and has endangered her physical and mental well-being.

2. On the basis of the aforesaid complaint Rabindra Sarobar PS case no. 80 of 2025 dated 06.07.2025 under section 85/305/351(3)/3(5) of the BNS 2023 corresponding to CGR Case no. 2086 of 2025 was registered for investigation against the accused no.1/husband of the complainant and also against the petitioners herein.

3. Being aggrieved by the aforesaid proceeding learned counsel for the petitioners submits that even if the allegations in the FIR are taken at their

face value and accepted in their entirety the same do not constitute offence under section 85 of the BNS against the petitioners herein as alleged offence can be attributed only to the victim's husband and his relatives by blood, marriage or adoption. The petitioner herein are neither the husband nor relative of the husband of defacto complainant.

4. He further submits that the allegations in the FIR are primarily directed against the husband of the defacto complainant i.e. accused no.1. The allegations against the present petitioners suffers from inherent improbabilities and is evidently motivated by *malafide* intention to harass the petitioners. The allegations are omnibus in nature and bereft of particulars and fails to disclose the commission of any cognizable offence against the present petitioners. The allegations levelled in the complaint are nothing but an afterthought and a manufactured version, lodged only with the intent to falsely implicate the present petitioners.

5. It is further contended on behalf of the petitioners that the defacto complainant had earlier lodged a complaint against her husband but in the earlier narrative made against her husband, no reference whatsoever was made to the present petitioners, which shows that they were sought to be implicated only at a later stage out of *malafide* and vindictive intent. Therefore the instant proceeding is nothing but an afterthought and has been lodged with the intent to falsely implicate the present petitioners. Petitioners further contention is that the School Attendance Register dated 03.07.2025, clearly demonstrates that the petitioner no.1 was discharging her professional duties as an Assistant Teacher from 10:30 am. to 4:30 PM which disproves her physical presence at the scene of her alleged

occurrence. The FIR contains sweeping, general allegations without attributing any specific overtact or criminal role to the petitioners. Petitioner no.2 and 4 are young students and they have no connection to the matrimonial discord. Their inclusion is based solely on their academic association with petitioner no.1, on the basis of a guess work. Learned counsel for the petitioners further submits that the FIR discloses the name of one 'Souvik Das Gupta' as an accused yet the petitioner no. 1 has no son by that name and her son's name is Soham Das Gupta. This error also underscores the cooked up and malicious nature of the complainant based on hearsay evidence. Therefore they have prayed for quashment of the said proceeding quo the petitioners herein.

6. Learned counsel appearing on behalf of the OP no. 2 submits that the petitioners have come before this court for quashing of the FIR, at a premature stage and there is no reasonable ground to quash the FIR because if it is allowed it would take away the right of victim/OP no.2 to avail a fair investigation and to seek justice in accordance with law. He further submits that FIR is not an encyclopaedia and is not expected to contain every minute details relating to the occurrence complained of.

7. In the instant case, the OP no.2 herself is the victim who had lodged the complaint on her own without any legal assistance and being a layman she cannot be expected to draft the complaint with legal precision or to narrate every factual details in the manner expected in legal pleadings. Therefore merely because the complaint does not contain exhaustive particulars, cannot render the FIR vague, when it otherwise discloses commission of cognizable offences warranting investigation in accordance

with law. Therefore, the allegations made in the complaint against the present petitioner are vague and general in nature and is wholly misplaced and untenable in law. It is further argued on behalf of the op no.2 that the complaint was lodged by the OP no.2 after 27 years of marriage because throughout the subsistence of the matrimonial relationship, she had endured continuous hardship. Her further case is that the lodging of the complaint was not a sudden or impulsive decision but was the result of years of suffering, tolerance and repeated attempts, on her part to sustain matrimonial relationship. But when it reached at a stage beyond tolerance she ultimately lodged the instant complaint.

8. Learned counsel for the OP No.2 further argued that apart from the allegations attracting section 85 of the BNS, the complaint also discloses commission of offence under section 305 and 351 (3) read with section 3(5) of the BNS and the allegations in respect of the same have been specially made against the petitioners herein. It has been specially alleged in the complaint that the petitioners had actively acted in concert with the husband and had instigated as well as contributed towards the continuous physical and mental torture suffered by OP no.2. The petitioner no.1 has sought to rely upon school register to establish her location at the relevant point of time. However, said documents are disputed in nature and their veracity cannot be examined at this stage of the proceeding. In the instant case the investigation is still at a very nascent stage. The investigating agency is yet to collect vital electronic evidence including call details record and tower location of the petitioners and at this stage court cannot place reliance upon such disputed documents.

9. Counsel for the Op no.2 further argued that husband of the OP no. 2 is presently residing at Chandernagore at the behest of petitioner no.1 herein and the said facts can only be properly ascertained upon collection of electronic evidence and completion of investigation. Thus at this premature stage and before collection of such vital evidences, the proceeding ought not to be quashed specially when material evidence establishing the role and involvement of the accused persons is yet to be brought on record. However, learned counsel for the OP no.2 on instruction submits that while lodging the FIR, the name of petitioner no.4 was inadvertently mentioned as 'Souvik Das Gupta' instead of "Soham Das Gupta" and it occurred due to *bonafide* mistake. But such inadvertent error in mentioning the name of the petitioner no.4 cannot affect the substance of the allegations made in the complaint or be construed as a ground to discredit the case of the OP No.2 at this stage.

10. He further submits that the petitioners have referred about delay of 3 days in lodging of the FIR but such contention is factually incorrect and contrary to the records itself. The incident in question had happened on 03.07.2025 and the complaint was received by police authority on the same date but they had registered the FIR on 06.07.2025 and therefore, there was no delay whatsoever on the part of the OP no.2 in approaching the police authorities. He further argued that the First Information Report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not only go into the allegations made in the FIR but police must be permitted to complete the investigation. In this context

petitioner has placed reliance upon the judgements of ***Mushkan Vs. Ishan Khan*** reported in ***2025 SCC Online 2355***, ***Rajesh Bajaj Vs. State of NCT of Delhi and Ors*,** **(1990) 3 SCC 259**, ***State of UP Vs. OP Sharma*** **(1996) 7 SCC 750** and ***Skoda Auto Volkswagan India Pvt. Ltd. Vs. State of UP*,** **(2020) SCC Online SC 958**.

11. Therefore he submits that when the first information report clearly discloses commission of cognizable offences, quashing of the FIR and the entire proceeding at an embryonic stage would create impediment to the Court of Justice and would cause grave prejudice to the OP no.2 and therefore he has prayed for dismissal of the instant application.

Decision

12. The petitioners herein along with the accused no.1 (i.e. husband of defacto complainant) are booked in the instant proceeding under section 85/305/351(3)/3 (5) of the BNS 2023. It is needless to mention that one of the essential ingredients to constitute offence under section 498A is that the victim was subjected to *"cruelty"* as defined under that said section *"by her husband or the relative of the husband"*. It is not in dispute that the instant petitioners are neither the husband nor the relative of the husband. Petitioner no.1, Purba Chatterjee is stated to be a student of Accused no.1 and currently engaged in research work. Petitioner no.2 Ayan Mazumder is a student of accused no.1 and currently pursuing his studies. Petitioner no.3 is the husband of petitioner no.1 and petitioner no.4 is the son of petitioner no.1 and 3, though his name has been wrongly written as *'Souvik Dasgupta'* instead of '*Soham Das Gupta'*.

13. At the cost of repetition the crux of the allegations in short is that the complainant after her marriage to the principal accused no. 1 (who is not the petitioner herein) was subjected to persistent physical violence, mental torture, verbal abuse and public humiliation. She further alleged that her husband had been maintaining an extra marital affair with petitioner no.1 herein since February 2025 and that the petitioners acting in conspiracy with the husband frequently visited the complainant's residence to intimidate her with intent to extort money and forced her to vacate the premises. Ultimately, on 03.07.2025 the said accused no.1 along with petitioner no.1 and petitioner no.3 herein attempted to forcefully evict her from her matrimonial home. Upon her refusal to vacate, it is further alleged that the principle accused unlawfully absconded with his personal belongings as well as articles belonging to the complainant thereby committing theft and he also caused criminal intimidation.

14. Now one of the essential ingredients to constitute offence under section 85 of the BNS is that the prosecution is required to prove that the victim was subjected to *"cruelty"* as defined in the said section "*by her husband or any relative of the husband"*. In view of the ratio laid down in the judgment of ***U. Suvetha Vs. State by Inspector of Police and Another*** reported in **(2009) 6 SCC 757** a girl friend or associate cannot be treated as a relative. The petitioners are neither the husband nor the relative of the husband either by blood, marriage or adoption. Therefore, the petitioners are not falling within the definition of the word "relative" as defined in the said judgement which reads as follows:-

> ***"10.*** *In the absence of any statutory definition, the term "relative" must be assigned a meaning as is commonly understood. Ordinarily it would include father, mother, husband or wife, son, daughter, brother, sister, nephew or niece, grandson or granddaughter of an individual or the spouse of any person. The meaning of the word "relative" would depend upon the nature of the statute. It principally includes a person related by blood, marriage or adoption."*

15. Learned Counsel for the petitioners has also taken an alibi that the school attendance record dated 03.07.2025 shows that on that date i.e. on 03.07.2025, petitioner no. 1 was discharging her professional duties as an Assistant Teacher from 10.30 to 4.30 P.M. Even though such document, filed along with this application cannot be said to be an unimpeachable document but fact remains that neither petitioner no.1 nor the other petitioners are the relative of principle accused no.1. Therefore, the allegation do not contain the ingredient required to constitute the offence under section 85 of the BNSS against the present petitioners

16. Now in order to constitute the offence under section 305 of the BNS the prosecution is required to show prima facie that the petitioners herein/accused persons removed movable property and they removed the property out of the possession of the complainant, without her consent with a dishonest contention from her dwelling unit. In the present case from the FIR it is clear that in para 5 the defacto complainant has specifically stated that on the date of occurrence, the principal accused acting in collusion with petitioner no.1 herein attempted to forcibly evict the complainant from her matrimonial residence and upon complainant's rightful refusal to vacate, the principal accused i.e. accused no.1 (who is not the petitioner herein) unlawfully absconded with his personal belongings as well as articles belonging to the complainant, thereby committed theft. Therefore,

from the FIR it is abundantly clear that the complainant has attributed the entire allegation of theft at her dwelling house only against her husband/ accused no.1 and not against any of the petitioners herein and therefore, section 305 of the BNS has got no application in the instant proceeding, so far as the present petitioners are concerned.

17. Now section 351(3) of BNS, deals with the commission of offence of criminal intimidation by threatening to cause death or grievous hurt or to cause destruction of any property by fire or to cause an offence punishable with death or imprisonment for life or imprisonment upto seven years or to impute unchastity to a women. Therefore, one of the essential ingredients of the offence under the section is that accused threatened the victim with injury to her person reputation or property and he did so with intent to cause alarm to the victim of offence and the accused did so to cause the victim to perform any act which he was not legally bound to do. In the FIR it has been only alleged in para 6 as follows:-

> *'that the principle accused has been habitually perpetrating physical violence upon the complainant causing grievous hurt and endangering her physical and mental well-being'*

18. Criminal intimidation as defined in the Sanhita states that in the first part there must be an act of threating another with injury to his person, reputation or property or to the person or reputation of anyone in which that person is interested and in the second part which refers the intent with which the threatening is carried out is either to cause alarm to the person threatened or to do any act which he is not legally bound to do or omit to do any act which that person is legally entitled to do as the means of avoiding the execution of threat.

19. From the above quoted complaint, it is quite clear that the defacto complainant has also not attributed any allegation of criminal intimidation against the present petitioners but only against the principal accused. Since the allegation in the FIR has been attributed against the principal accused No.1 only, the allegation of criminal intimidation under section 351 (3) has also got no application against the present petitioners.

20. Now so far as the allegation under section 3(5) of BNS 2023 is concerned two factors must be established. One is common intention and second is participation of the accused in the commission of an offence. Section 3(5) deals with constructive criminal liability and it provides that where a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner, as if it was done by him alone.

21. In the instant case as I have stated above that section 85/3(5) of the BNS has got no application against the petitioners since they are neither husband nor the relative of the husband of the defacto complainant and so far as allegation under section 305/3(5) and 351(3)/3(5) are concerned it has also got no application in the present context against the present petitioners in view of the fact that the FIR clearly discloses that entire allegation under 305 and 351(3) have been attributed against husband of the defacto complainant and not against the present petitioners. Since the husband of defacto complainant/accused no.1 is not before this Court, I have not examined the role played by the said accused no.1 in committing the offence. Nevertheless since the allegations under section 305 and 351(3) has been solely attributed against the husband of the defacto complainant,

it does not attract the word "in furtherance" as used in section 3(5) because the word "furtherance" indicates some kind of aid or assistance producing an effect i.e. advancement or promotion, but such allegation is completely lacking in the present context against the petitioners. In the entire petition of complaint, nowhere the role played by any of the petitioners in the alleged crime has been mentioned separately or clearly. Therefore, even if all the averment made in the FIR are taken to be correct, the case for prosecution under sections 85/ 305/351 (3)/3(5) is not made out against the present petitioners

22. Therefore in order to make out a case against the present petitioners the materials left for consideration of the court is only mentioning of the names of the petitioners with non-specific, allegations as appearing from the FIR. The allegation that the petitioners in connivance with principle accused have tried to oust her from her matrimonial home may apparently espouse the sentiments of people, though are not sufficient to set a criminal process in motion against the petitioners who are mostly the students and researchers working under the principle accused no.1 and who have the constitutionally guaranteed right to have a free peaceful and unblemished life, unless sufficient prima facie material is there against them, justifying their sacrificing such freedom.

23. In ***Bhajanlal's Case,*** **(1992) supp 1 SCC 335** the Apex Court stated that though it may not be possible to lay down any precise or clearly defined, sufficiently channelized an inflexible guidelines or rigid formula or to give an exhaustive list of myriad kind of cases, where jurisdiction under section 482 of the Code/528 of the BNSS for quashing of an FIR should be

exercised, but there are circumstances where the court may be justified in exercising such jurisdiction, which includes where the FIR does not prima facie constitute any offence or does not disclose a cognizable offence against the accused justifying investigation by the police.

24. For the reasons as discussed above, this court is constrained to find that the FIR or other materials available in this case do not disclose a cognizable offence to have been made out against the petitioners herein. Apparently this case is the outcome of the matrimonial disharmony between the defacto complainant and the principle accused no.1 and therefore for the reasons as mentioned above this court cannot rule out existence of any malicious or *malafide* intention in setting the criminal justice system in motion against the petitioners herein. It is settled law that the court must ensure that criminal prosecution is not used as an instrument of harassment or for seeking private vendetta or with an ulterior motive to pressurize the petitioners.

25. Hence it is ordered that the CGR case no. 2086/2025 presently pending before learned Chief Judicial Magistrate is hereby quashed quo the petitioners namely ***Purba Chatterjee, Ayan Mazumder, Surajit Biswas @ Surojit Biswas and Soham Dasgupta*** (wrongly named as Souvik Das Gupta in the FIR). Since no affidavit is invited the allegations contained in the petition of complaint against the petitioners are deemed to have been denied by the petitioners.

26. **CRR 5550 of 2025** thus stand disposed of.

27. Urgent Xerox certified photocopies of this Judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(DR. AJOY KUMAR MUKHERJEE, J.)