

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. No. 2448 of 2024
SAYED DARAIN AHSAN @ DARAIN
VS
THE STATE OF WEST BENGAL & ORS.

For the Petitioner	:	Mr. Syed Shahid Imam, Adv. Mr. Mohammad Khairul, Adv.
For the Opposite Party No. 4	:	Mr. Saptarshi Kr. Kundu, Adv. Mr. Shahid Ansari, Adv. Md. Shahbaz, Adv.
For the Opposite Party No. 5	:	Mr. Arnab Chatterjee, Adv. Ms. Ankusha Ghosh, Adv.
For the State	:	Mr. Sagar Saha, Adv. Ms. Nayana Mukhopadhyay, Adv.
Heard on	:	07.08.2026
Delivered on	:	14.08.2026
Uploaded on	:	14.08.2026

Ajay Kumar Gupta, J.:

1. By filing this Criminal Revisional application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973 (In short 'CrPC'), the petitioner prays for quashing of the proceeding arising out of the FIR being Garden Reach P.S. Case No. 115 dated 07.06.2024 under Sections 323/341/506 of the Indian Penal Code corresponding to C.G.R. 1493/2024.

FACTS OF THE CASE: -

2. The specific case of the petitioner is that he is a life convict in connection with another criminal case and was granted parole by the jail authority for different purposes from time to time. There was no adverse report against him. He was granted parole to attend his son's wedding, and the authorities also gave him documents to notify the Garden Reach Police Station.
3. On 07.06.2024, at around 3.30 pm, the petitioner, along with his elder brother, was going to the Garden Reach Police Station to notify the Police of the parole as granted in his favour by submitting documents. A group of men on bikes suddenly surrounded them on the way and attacked the petitioner and his younger brother, namely, Sayed Rafi Ahasan. Both of them fell from the bike and sustained injuries. The whole incident was

recorded in a local CCTV camera; moreover, while attacking, the Opposite Parties Nos. 4 and 5 threatened to kill the petitioner.

- 4.** It was further the case of the petitioner that after the said incident, they immediately rushed to the Garden Reach Police Station and apprised the police about the incident and tried to make a complaint. However, the police officer at the Garden Reach Police Station did not lodge an FIR, and their complaint was left pending as a general diary. Instead, a false case, being no. 115 dated 07.06.2024 under sections 323/341/506 of IPC, was initiated against the petitioner by the opposite party no. 4. It is further alleged that the petitioner was falsely arrested at around 4.30 pm without any fault. The CCTV camera at the Garden Reach Police Station as well as the CCTV at the place of occurrence has recorded the whole incident that can establish everything was pre-planned by the complainant.
- 5.** After getting arrested, the Officer-in-Charge of the said PS cancelled his parole without verifying the actual incident, being influenced by the local counsellor, since the opposite parties are influential persons in the locality.
- 6.** The petitioner was innocent; as such, he prays for quashing of the entire proceeding since he has been falsely implicated in the

aforesaid case without any fault from his side. Hence, this application.

SUBMISSIONS ON BEHALF OF THE PETITIONER: -

7. Learned counsel appearing on behalf of the petitioner strenuously argued the case and further submitted that the entire facts of the actual incident were apprised to the officer of the Garden Reach Police Station, but they did not register any case against the Opposite Party Nos. 4 and 5; rather, a false case was registered against the petitioner by opposite party no. 4. The petitioner also filed an application before the Magistrate when he was produced after arrest. He also prayed for preservation of the CCTV footage for proper and effective investigation of the proceeding and to bring out the actual truth. However, after hearing, the learned Trial Court kept the said application without passing any effective order on merits, indicating that the petition is misconceived and has no basis for keeping the CCTV footage.
8. Learned counsel further submitted that the CCTV footage of the Garden Reach police station as well as that of the place of occurrence will reveal the actual truth. The petitioner is completely innocent and was falsely implicated only to restrain him from receiving parole benefits granted by the concerned

Authorities. He had a good record during incarceration and even during parole; as such, the impugned proceeding is liable to be quashed to secure the ends of justice and to prevent abuse of process of law.

SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTIES: -

9. On the other hand, learned counsels appearing on behalf of the opposite parties Nos. 4 and 5 vehemently opposed the prayer of the learned counsel appearing on behalf of the petitioner and further submitted that the complaint was lodged by the complainant to the effect that on 07.06.2024 at about 15.30 hrs, accused Darrain Ahsan being a life convict, who had been released on parole by Balurghat Central Correctional Home for 4 days, starting from 06.06.2024 evening, assaulted him by way of pushing and slapping, and also threatened him with dire consequences at Iron Gate More, PS- Garden Reach, Kolkata – 700 024.
10. After lodging the FIR, the police authority of Garden Reach PS immediately arrested the petitioner, maintaining all formalities. The accused person was offered bail, but his parole was cancelled, and he was immediately taken into custody.
11. The accused in the instant case, being a life convict, was released on parole under certain conditions, but he violated the

same; as such, ADG & IG of Correctional Services, WB, Directorate of Correctional Services, Jessop Building, 1st Floor, 63 NS Road, Kolkata 700 001 was informed about the developments. Subsequently, a message was received from Superintendent Balurghat Central Correctional Home inter alia stating that the parole has been cancelled with advice to shift said life convict to Presidency Correctional Home, Calcutta, ensuring “take charge” for subsequent transfer to Balurghat Correctional Home. The information was diarised vide Garden Reach P.S. General Diary Entry No. 577 dated 07.06.2024.

12. It was further submitted that the story of the petitioner that he was within the Garden Reach PS at 3.30 pm or on the way to police station is totally false and frivolous. The prayer for collecting CCTV footage at this stage is a futile exercise since, after lapse of two years, the CCTV footage cannot be restored as it was never preserved by the Police Authority for a long time. The learned Trial Court also did not believe the contention of the petitioner and rejected his prayer, holding that the petition was misconceived.
13. Learned counsel has placed reliance on a judgment passed in the case of ***Neeharika Infrastructure Private Limited v. State***

*of Maharashtra and Ors.*¹, to support his contention that when there is sufficient material against the petitioner, inherent power granted to the court under Section 482 of the Cr.P.C. should be applied sparingly and cautiously.

SUBMISSIONS ON BEHALF OF THE STATE: -

- 14.** Learned counsel appearing on behalf of the State produced the case diary and drew the attention of this Court to the statement of the witnesses recorded under Section 161 of the Cr.P.C and injury report of complainant Md. Saif Khan. Those statements and injury report are the prima facie materials to establish the offence allegedly committed by the petitioner and are completely against the present petitioner for an offence under Sections 323/341/506 of IPC. Therefore, the prayer for quashing the entire proceeding, including the FIR, should be rejected and allowed to be continued to face the trial before the court of law.

DISCUSSION AND FINDINGS OF THIS COURT:

- 15.** Having heard the submissions advanced by the learned counsels appearing on behalf of the respective parties and upon perusal of the FIR as well as case diary, particularly statements under Section 161 of the Cr.P.C and injury report, this Court finds that the complainant disclosed the cognizable offence against the

¹ (2021) 19 SCC 401.

petitioner. During the investigation, sufficient materials were collected against the present petitioner that indicates a prima facie case. In such a situation, the prayer for quashing of the proceedings against the present petitioner does not deserve to be entertained at this stage.

- 16.** The Hon'ble Supreme Court in ***Neeharika Infrastructure Pvt. Ltd. (Supra)*** has laid down several guidelines to be followed by the court while exercising its power under Section 482 of the Cr.P.C./or under Article 226 of the Constitution of India; out of those guidelines, a few are as under: -

- "i) The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the 'rarest of rare cases (not to be confused with the formation in the context of death penalty).*
- ii) Criminal proceedings ought not to be scuttled at the initial stage;*
- iii) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;*
- iv) The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the Court to be more cautious. It casts an onerous and more diligent duty on the Court;*
- v) While examining an FIR/complaint, quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;*

vi) Quashing of a complaint/FIR should be an exception rather than an ordinary rule;

vii) When a prayer for quashing the FIR is made by the alleged accused and the Court when it exercises the power under Section 482 Cr.P.C., only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The Court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the Court has to permit the investigating agency/police to investigate the allegations in the FIR;"

17. In the light of the aforesaid discussion and also in view of the guidelines laid down by the apex court, the application is devoid of any merit. Consequently, this Court finds no reason to quash the impugned proceeding.
18. All issues raised on behalf of the petitioner are left open to be decided at the time of trial. The observations made by this Court in the instant case are only for the purpose of deciding this instant revisional application. The same shall not stand in the way of the Trial Court in deciding the case on its own merit independently and coming to a logical conclusion.
19. **C.R.R. No. 2448 of 2024** stands **dismissed**. Connected applications, if any, are also, thus, disposed of.
20. Case diary, if any, be returned to the learned counsel for the State.

- 21.** Interim order, if any, stands vacated.
- 22.** Let a copy of this judgment be forwarded to the Learned Trial Court for information and taking necessary action in accordance with law.
- 23.** All parties shall act on the basis of a server copy of this judgment duly downloaded from the official *website* of this court.
- 24.** 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.A.)