

IN THE HIGH COURT AT CALCUTTA

(Criminal Revisional Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 355 of 2020

Rajatava Choudhury & Anr.

Vs

The State of West Bengal & Anr.

For the Petitioners : Mr. Sekhar Kumar Basu,
Mr. Abhijit Ganguly,
Mr. Mitul Hajra.

For the State : None.

For the Opposite Party no. 2 : None.

Heard on : 03.03.2023

Judgment on : 21.04.2023

Shampa Dutt (Paul), J.:

1. The present revision has been preferred praying for quashing of Complaint Case being no. 616 of 2014 (TR-230/14) under Sections 420/406/506/120B of the Indian Penal Code and all further proceedings therein pending before the Learned Additional Chief Judicial Magistrate at Asansol.
2. The petitioners case is that the petitioner no. 1 is aged about 59 years and is an Assistant Engineer with Howrah Municipal Corporation. The petitioner no. 2 is aged about 56 years and is an Architect. The petitioners are the son and daughter in law of the Opposite Party no.2
3. That in the year **2001** the Opposite Party no. 2 by a Gift of Deed executed on 2nd November 2001 gifted to the petitioner no. 1 a flat and by a Deed of Gift executed on 3rd November 2001 gifted gold ornaments.
4. The Petitioners state that they along with two (2) others namely Sanjoy Kumar Pal and Gopal Das have been falsely implicated in the instant case being the Complaint Case No. 616 of 2014 (TR-230/14) under Sections 420/406/506/120B of the Indian Penal code pending before the Learned Additional Chief Judicial Magistrate at Asansol by Sulekha Choudhury, the Opposite Party No. 2, mother of the petitioner no. 1 and mother-in-law of petitioner no. 2.
5. The allegations leveled against the petitioners inter alia are as follow:-

That the Opposite Party no. 2 is a widow aged about 80 years and the petitioners have been always greedy of her property. The petitioners always insisted that the entire property must be transferred to them. The petitioners also used to threaten the opposite party no. 2 over telephone. The opposite party no. 2 used to stay with her elder son and daughter-in-law. When they went to Chennai for treatment in November 2001, the petitioners hatched up a conspiracy and took her gold ornaments (25 bhoris) with the assurance that the ornaments will be kept in the bank locker and the petitioners also made the opposite party no. 2 sign on blank papers. She was also made to do all house hold work. She was subjected to immense mental and physical torture. When the health of the Opposite Party no. 2 deteriorated she was taken to her house at Asansol on 03.02.2014. On 12.03.2014 the Opposite Party through a letter requested the petitioners to return the gold ornaments but in reply the Petitioner No.1 stated that the gold ornaments and the house property have been gifted to him by a Gift Deed. When the Opposite Party No. 2 searched the documents from the Registration Office it revealed that the Gift Deed No. 6024/2001 made on 02.01.2001 was registered on illegal and wrongful circumstances and when the Opposite Party No.2 got in touch with the witnesses they said that they have been paid handsomely.

6. **That Title Suit No. 150 of 2015 is pending between the Petitioner No. 1 and his elder brother Amitava Choudhury regarding the**

properties gifted to the Petitioner No. 1 by the said Gift Deeds,
before the Court of the Learned Civil Judge Senior Division 1st Court,
Asansol.

7. **Mr. Sekhar Kumar Basu learned senior counsel for the petitioners**
has submitted that the allegations made in the complaint do not satisfy
the ingredients of the offences as alleged.
8. The instant complaint has been instituted after a **delay of almost
thirteen (13) years** and no effort has been made to explain such delay
and as such the instant complaint is liable to be quashed.
9. The purported Complaint is manifestly attended with an ulterior motive
for wreaking vengeance on the petitioners and to create undue pressure
on him.
10. The impugned proceeding is wholly vexatious and is a malafide attempt
to abuse the process of law.
11. That continuation of the impugned proceeding will cause severe
prejudice to the petitioners and the same should be quashed.
12. The petitioners are absolutely innocent and have no role to play in the
offence as alleged.
13. **In spite of due service there is no representation on behalf of the
Opposite Party no. 2.**
14. From the materials on record it is evident that:-
 - 1) The petitioners are the son and daughter in law the complainant.

- 2) **Title Suit No. 150/2015 is pending between the petitioner no. 1 and his elder brother Amitava Choudhury in respect of the properties allegedly gifted by the complainant to the petitioner no. 1.**
 - 3) The gift deed was admittedly executed on 03.11.2001. **Title Suit has been filed after 15 years.**
 - 4) Present complaint has been filed on 19.09.2014 **(after almost 13 years).**
 - 5) **From the copy of the deed, it is seen that the petitioner no.1 and the complainant were the joint owners of the said (disputed) flat which has been allegedly been gifted by the complainant to the petitioner no. 1 by a registered deed.**
15. From the said materials on record it prima facie appears to be a family property dispute. **A civil suit is also pending.**
16. Considering the facts as stated by the complainant, it is open to the complainant to file for cancellation of the said alleged deeds if deemed fit. The dispute is prima facie civil in nature.
17. The Supreme Court in ***Mitesh Kumar J. Sha vs. The State of Karnataka & Ors. (Criminal Appeal no. 1285 of 2021)*** while considering an appeal against an judgment and order of the High Court of Karnataka in an application under Section 482 of the Cr.P.C. wherein the prayer of the petitioners for quashing of proceedings of offence

punishable under Section 406, 419, 420 read with Section 34 of the IPC

was dismissed, held:-

“26. Having perused the relevant facts and contentions made by the Appellants and Respondents herein in our considered opinion, the following three key issues require determination in the instant case:

- Whether the necessary ingredients of offences punishable under Sections 406, 419 and 420 are prima facie made out?

- Whether sale of excess flats, even if made, amounts to a mere breach of contract or constitutes an offence of cheating?

- Whether the dispute is one of entirely civil nature and therefore liable to be quashed?

Whether the necessary ingredients of offences punishable under Sections 406, 419 and 420 are prima facie made out?

37. *Although, there is perhaps not even an iota of doubt that a singular factual premise can give rise to a dispute which is both, of a civil as well as criminal nature, each of which could be pursued regardless of the other. In the instant case, the actual question which requires consideration is not whether a criminal case could be pursued in the presence of a civil suit, but whether the relevant ingredients for a criminal case are even prima facie made out. Relying on the facts as discussed in previous paragraphs, clearly no cogent case regarding a criminal breach of trust or cheating is made out.*

40. *.....Whether the dispute is one of entirely civil nature and therefore liable to be quashed?*

41. *Having considered the relevant arguments of the parties and decisions of this court we are of the considered view that existence of dishonest or fraudulent intention has not been made out against the Appellants. Though the instant dispute certainly involves determination of issues which are of civil nature, pursuant to which*

Respondent No. 2 has even instituted multiple civil suits, one can by no means stretch the dispute to an extent, so as to impart it a criminal colour. As has been rightly emphasised upon by this court, by way of an observation rendered in the case of **M/s Indian Oil Corporation Vs. M/s. NEPC India Ltd & Ors.**, as under :-

“14. While no one with a legitimate cause or grievance should be prevented from seeking remedies available in criminal law, a complainant who initiates or persists with a prosecution, being fully aware that the criminal proceedings are unwarranted and his remedy lies only in civil law, should himself be made accountable, at the end of such misconceived criminal proceedings, in accordance with law.”

42. It was also observed:-

“13. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors....There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged.”

43. On an earlier occasion, in case of **G. Sagar Suri and Anr. Vs. State of UP and Ors.**, this Court has also observed:-

“8. Jurisdiction under Section 482 of the Code has to be exercised with a great care. In exercise of its jurisdiction High Court is not to examine the matter superficially. It is to be seen if a matter,

which is essentially of civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this Section has to be exercised to prevent abuse of the process of any court or otherwise to secure the ends of justice.”

44. Furthermore, in the landmark judgment of **State of Haryana & Ors. Vs. Ch. Bhajan Lal and Ors.** regarding exercise of inherent powers under section 482 of CrPC, this Court has laid down following categories of instances wherein inherent powers of the can be exercised in order to secure the ends of justice. These are:-

“(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 prima 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 the 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.”

45. *Applying this dictum to the instant factual matrix, it can be safely concluded that the present case clearly falls within the ambit of first, third and fifth category of the seven categories enlisted in the above said judgment. The case therefore warrants intervention by this Court, and the High Court has erred in dismissing the petition filed by the Appellants under section 482 CrPC. We find that there has been attempt to stretch the contours of a civil dispute and thereby essentially impart a criminal color to it.*

46. *Recently, this Court in case of **Randheer Singh Vs. The State of U.P. & Ors.**, has again reiterated the long standing principle that criminal proceedings must not be used as instruments of harassment. The court observed as under:-*

“33.There can be no doubt that jurisdiction under Section 482 of the Cr.P.C. should be used

sparingly for the purpose of preventing abuse of the process of any court or otherwise to secure the ends of justice. Whether a complaint

10. Criminal Appeal No. 932 of 2021 (decided on 02.09.2021) discloses criminal offence or not depends on the nature of the allegation and whether the essential ingredients of a criminal offence are present or not has to be judged by the High Court. There can be no doubt that a complaint disclosing civil transactions may also have a criminal texture. The High Court has, however, to see whether the dispute of a civil nature has been given colour of criminal offence. In such a situation, the High Court should not hesitate to quash the criminal proceedings as held by this Court in Paramjeet Batra (supra) extracted above.”

47. *Moreover, this Court has at innumerable instances expressed its disapproval for imparting criminal color to a civil dispute, made merely to take advantage of a relatively quick relief granted in a criminal case in contrast to a civil dispute. Such an exercise is nothing but an abuse of the process of law which must be discouraged in its entirety.*

48. *In view of the above facts and discussions, the impugned order dated 13.08.2019 passed by the High Court of Karnataka is set aside. The impugned F.I.R. No. 185 of 2016 dated 29.03.2016 and proceedings in C.C.No. 20609 of 2017 on the file of VI Additional CMM, Bengaluru, in pursuance of charge sheet dated 29.03.2017 against the appellants for offences under Sections 406, 419, 420 read with Section 34 IPC stands quashed.”*

18. This Court relies upon the judgment of the Supreme Court in **Birla Corporation Ltd. vs. Adventz Investments and holdings, Criminal Appeal no. 877 of 2019**, wherein the court held:-

“86. In Indian Oil Corpn. v. NEPC India Ltd. and Others (2006) 6 SCC 736, the Supreme Court after observing that there is a growing tendency in business circles to convert powerful civil disputes in criminal cases held as under:-

“14. While no one with a legitimate cause or grievance should be prevented from seeking remedies available in criminal law, a complainant who initiates or persists with a prosecution, being fully aware that the criminal proceedings are unwarranted and his remedy lies only in civil law, should himself be made accountable, at the end of such misconceived criminal proceedings, in accordance with law. One positive step that can be taken by the courts, to curb unnecessary prosecutions and harassment of innocent parties, is to exercise their power under Section 250 CrPC more frequently, where they discern malice or frivolousness or ulterior motives on the part of the complainant. Be that as it may.”

(Medmeme LLC & Ors. vs. M/s. Ihorse BPO Solutions Pvt.

Ltd. (2018)13 SCC 374).

19. **In the present case,** the nature of act is a dispute between the parties relating to their family property which is clearly a civil dispute and there is no prima facie evidence of overt act on the part of the petitioners.
20. **In M/s. Indian Oil Corporation vs. M/s Nepc India Ltd. & Ors., Appeal (crl.) 834 of 2002** decided on 20.07.2006, the Supreme Court considered the following point among the two points decided.

“8. The High Court by common judgment dated 23.3.2001 allowed both the petitions and quashed the two complaints. It accepted the second ground urged by the Respondents herein, but rejected the first ground. The said order of the High Court is under

challenge in these appeals. On the rival contentions urged, the following points arise for consideration :

(i) Whether existence or availment of civil remedy in respect of disputes arising from breach of contract, bars remedy under criminal law?

(ii) Whether the allegations in the complaint, if accepted on face value, constitute any offence under sections 378, 403, 405, 415 or 425 IPC ?

Re : Point No. (i) :

9. The principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings have been stated and reiterated by this Court in several decisions. To mention a few - *Madhavrao Jiwaji Rao Scindia v. Sambhajirao Chandrojirao Angre* [1988 (1) SCC 692], *State of Haryana vs. Bhajanlal* [1992 Supp (1) SCC 335], *Rupan Deol Bajaj vs. Kanwar Pal Singh Gill* [1995 (6) SCC 194], *Central Bureau of Investigation v. Duncans Agro Industries Ltd.*, [1996 (5) SCC 591], *State of Bihar vs. Rajendra Agrawalla* [1996 (8) SCC 164], *Rajesh Bajaj v. State NCT of Delhi*, [1999 (3) SCC 259], *Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd.* [2000 (3) SCC 269], *Hridaya Ranjan Prasad Verma v. State of Bihar* [2000 (4) SCC 168], *M. Krishnan vs Vijay Kumar* [2001 (8) SCC 645], and *Zandu Phamaceutical Works Ltd. v. Mohd. Sharaful Haque* [2005 (1) SCC 122]. The principles, relevant to our purpose are :

(i) A complaint can be quashed where the allegations made in the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out the case alleged against the accused.

For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with

malafides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out : (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceedings are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.

10. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable break down of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure

though criminal prosecution should be deprecated and discouraged. In G. Sagar Suri vs. State of UP [2000 (2) SCC 636], this Court observed :

"It is to be seen if a matter, which is essentially of civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this Section has to be exercised to prevent abuse of the process of any court or otherwise to secure the ends of justice."

While no one with a legitimate cause or grievance should be prevented from seeking remedies available in criminal law, a complainant who initiates or persists with a prosecution, being fully aware that the criminal proceedings are unwarranted and his remedy lies only in civil law, should himself be made accountable, at the end of such misconceived criminal proceedings, in accordance with law. One positive step that can be taken by the courts, to curb unnecessary prosecutions and harassment of innocent parties, is to exercise their power under section 250 Cr.P.C. more frequently, where they discern malice or frivolousness or ulterior motives on the part of the complainant. Be that as it may."

21. Offence alleged is under Sections 420/406/506/120B IPC.
22. The ingredients required to constitute the said offences are prima facie not present, considering nature of dispute, facts and circumstances of the case and the relationship between the parties.
23. In **Ramesh Chandra Gupta vs. State of Uttar Pradesh and Ors., 2022 LiveLaw (SC) 993, Criminal Appeal No(s). 2060 of 2022 (Arising out of SLP (Crl.) No(s). 39 of 2022)**, the Supreme Court held:-

*“15. This Court has an occasion to consider the ambit and scope of the power of the High Court under Section 482 CrPC for quashing of criminal proceedings in **Vineet Kumar and Others vs. State of Uttar Pradesh and Another, (2017) 13 SCC 369** decided on 31st March, 2017. It may be useful to refer to paras 22, 23 and 41 of the above judgment where the following was stated:*

“22. Before we enter into the facts of the present case it is necessary to consider the ambit and scope of jurisdiction under Section 482 CrPC vested in the High Court. Section 482 CrPC saves the inherent power 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.

*23. This Court time and again has examined the scope of jurisdiction of the High Court under Section 482 CrPC and laid down several principles which govern the exercise of jurisdiction of the High Court under Section 482 CrPC. A three-Judge Bench of this Court in *State of Karnataka v. L. Muniswamy* (1977) 2 SCC 699 held that the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. In para 7 of the judgment, the following has been stated :*

‘7. ... In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. 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. The ends of justice are higher than the ends of mere law though justice has got to be administered

according to laws made by the legislature. The compelling necessity for making these observations is that without a proper realisation 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.'

41. Inherent power given to the High Court under Section 482 CrPC is with the purpose and object of advancement of justice. In case solemn process of Court is sought to be abused by a person with some oblique motive, the Court has to thwart the attempt at the very threshold. The Court cannot permit a prosecution to go on if the case falls in one of the categories as illustratively enumerated by this Court in State of Haryana v. Bhajan Lal 1992 Supp (1) SCC 335. Judicial process is a solemn proceeding which cannot be allowed to be converted into an instrument of operation or harassment. When there are materials to indicate that a criminal proceeding is manifestly attended with mala fides and proceeding is maliciously instituted with an ulterior motive, the High Court will not hesitate in exercise of its jurisdiction under Section 482 CrPC to quash the proceeding under Category 7 as enumerated in State of Haryana v. Bhajan Lal 1992 Supp (1) SCC 335 which is to the following effect :

'102. (7) Where a criminal proceeding is manifestly attended with mala fides 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.'

Above Category 7 is clearly attracted in the facts of the present case. Although, the High Court has noted the judgment of State of Haryana v. Bhajan Lal 1992 Supp (1) SCC 335 but did not advert to the relevant facts of the present case, materials on which final report was submitted by the IO. We, thus, are fully satisfied that the present is a fit case where the High Court ought to have exercised its jurisdiction under Section 482 CrPC and quashed the criminal proceedings."

16. *The exposition of law on the subject relating to the exercise of the extra-ordinary power under Article 226 of*

*the Constitution or the inherent power under Section 482 CrPC are well settled and to the possible extent, this Court has defined sufficiently channelized guidelines, to give an exhaustive list of myriad kinds of cases wherein such power should be exercised. This Court has held in para 102 in **State of Haryana and Others v. Bhajan Lal and Others, 1992 Supp. (1) 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 exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases 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 of 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 prima 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 FIR 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 the 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.”

17. *The principles culled out by this Court have consistently been followed in the recent judgment of this Court in **Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra and Others, 2021 SCC Online SC 315.***

24. The complaint has been filed after 13 years regarding a property, which the petitioner no.1 had purchased with the complainant jointly. As such in the present case, clause 1, 2 and 7 of paragraph 102 in the case of **State of Haryana vs Bhajan Lal and Ors., (Supra)** is applicable.
25. **CRR 355 of 2020 is accordingly allowed.**
26. The proceeding being Complaint Case No. 616 of 2014 (TR-230/14) under Sections 420/406/506/120B of the Indian Penal Code and all further proceedings pending before the Learned Additional Chief Judicial Magistrate, Asansol, is hereby quashed.
27. There will be no order as to costs.
28. All connected Applications stand disposed of.

29. Interim order if any stands vacated.
30. Copy of this judgment be sent to the learned Trial Court forthwith for necessary compliance.
31. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)