

**IN THE HIGH COURT AT CALCUTTA  
CRIMINAL REVISIONAL JURISDICTION  
APPELLATE SIDE**

**Present:**

**The Hon'ble Justice Ananya Bandyopadhyay**

**C.R.R. 2231 of 2011**

**Chandranath Batabyal**

**-Vs-**

**State of West Bengal & Anr.**

For the Petitioners : Mr. Milon Mukherjee  
Mr. Rana Mukherjee  
Mr. Biswajit Manna

For the State : Mr. Madhusudan Sur  
Mr. Manoranjan Mahata

Heard on : 19.07.2023, 20.07.2023, 25.07.2023, 07.12.2023

Judgment on : 11.12.2023.

**Ananya Bandyopadhyay, J.:-**

1. This instant criminal revisional application is filed by the petitioner praying for quashing of the proceeding being G.R. No. 260/2011 arising out of Simlapal P.S. Case No. 23/2011 dated 15.06.2011 under Sections 406/420/12B/384 of the Indian Penal Code pending before the Learned Additional Chief Judicial Magistrate, Khatra, Bankura.
2. Petitioner stated that while he was attached with Simlapal Police Station, Simlapal, District Bankura one case was registered by him vide Simlapal P.S. GDE No. 113/2010 dated 3.3.2010 under section 41 of the Code of

Criminal Procedure to the effect that on 3.3.2010 at about 20.30 Hrs. while he along with force were performing mobile duty at Bikrampur More under Simlapal Police Station, Simlapal, District Bankura one Lorry bearing Registration No. WB67/6842 loaded with white colour dolomite chips were proceeding towards Raipur at high speed. The petitioner managed to stop the said vehicle and thereafter directed the driver of the said Lorry to produce his driving licence and other papers of the said vehicle relating to the said goods. However, the driver failed to show any papers regarding vehicle as well as the loaded goods but he had only driving licence with authority letter (driving) of the owner of the vehicle with him. The present petitioner seized the vehicle as well as the driving licence of the driver and driving authority letter under proper seizure list and arrested the driver of the vehicle under section 41 of the Code of Criminal Procedure as he was unable to produce any papers relating to the vehicle as well as loaded goods in the vehicle. The driver was forwarded to the Learned court below on 4.3.2010 with the forwarding report.

3. The petitioner further stated that thereafter the driver of the vehicle was enlarged on bail by the Learned court below and so far as the return of the vehicle with dolomite was concerned, the Learned court below directed the concerned police authority to file report and necessary report was filed by the Inspector-in-Charge, Simlapal Police Station as well as by the present petitioner, who was the Investigating officer in the said case and upon perusing the said reports as well as report of the Regional Transport

Authority, Bankura, the vehicle loaded with dolomite was released in favour of the owner of the vehicle i.e. the opposite party No.2 and during the course of proceeding an allegation was made by the owner of the vehicle i.e. the opposite party No.2 that in the said vehicle there was sum of Rs. 35,000/- kept but the same was not found at the time of receiving the vehicle pursuant to the order of the Learned court below. The said allegation was also dealt with by the Learned Magistrate but the Learned court below did not come in conclusive decision as to whether money was kept inside the vehicle or not. But, however, the owner of the vehicle i.e. the opposite party no. 2 had received the vehicle with loaded dolomite pursuant to the order of the Learned Magistrate.

4. Petitioner further stated that it transpires from the report of the Regional Transport Authority that the owner of the vehicle i.e. opposite party no. 2 after seizure of the vehicle applied for duplicate R/C Book and other documents relating to the vehicle from the Regional Transport Authority and the same was duly supplied and thereafter the opposite party no. 2 produced the same before the Learned court below for return of the said vehicle and thus it was well established that at the time of seizure there was no valid documents relating to the said vehicle under the custody of the owner as well as driver of the said vehicle.
5. Petitioner further stated that surprisingly after receiving the vehicle loaded with dolomite and after discharging the accused of the aforesaid case being Simlapal P.S. GDE No. 113/2010 dated 3.3.2010, the opposite party no. 2

being the owner of the vehicle filed a complaint case being no. 13 MP/2010 before the Learned Additional Chief Judicial Magistrate, Khatra, Bankura over the same self allegation that a sum of Rs. 35,000/- was kept inside the vehicle which was not found at the time of receiving the vehicle loaded with dolomite pursuant to the order of the Learned Magistrate and thus she made allegation under Section 406/420/120B/384 of the Indian Penal Code against the present petitioner and the driver and khalasi of the said vehicle.

6. Petitioner further stated that it was curious enough that the same Learned Magistrate i.e. Additional Chief Judicial Magistrate, Khatra, Bankura upon perusing the said complaint being No. 13 MP/2010 passed an order on 9.3.2010 directing the Inspector-in-Charge, Simlapal Police Station to treat the said complaint as First Information Report and start investigation knowing fully well that the said allegation has already been dealt with by him in connection with Simlapal P.S. GDE No. 113/2010 dated 3.3.2010.
7. Petitioner further stated that on the basis of the said order the aforesaid criminal case has been registered against the petitioner and other accused persons by the Simlapal Police Station.
8. Petitioner submitted that the allegation made in the First Information Report has already been dealt with by him in the proceeding arose out of Simlapal P.S. GDE No. 113/2010 dated 3.3.2010 under Section 41 of the Code of Criminal Procedure which was ultimately disposed of by him but no where it was established that the allegations made by the owner of the vehicle i.e. the opposite party no. 2 has been well established.

9. Petitioner further submitted that complaint petition being no. 13 MP/2010 was vague, fabricated and without having any basis.
10. Petitioner further submitted that owner of the vehicle has miserably failed to produce any document regarding ownership of the said vehicle and after seizure of the vehicle she applied for duplicate documents relating to ownership of the said vehicle and after obtaining the duplicate documents from the concerned Regional Transport Authority, Bankura , the same was produced before the Learned Court below in the proceeding of Simlapal P.S. GDE No. 113/2010 dated 3.3.2010 and thereafter it was returned to her with proper bond. Therefore, the provisions of Section 41 of the Code of Criminal Procedure was well established but even then the complainant with an ulterior motive and to harass the present petitioner filed the said complaint case which was ultimately treated as First Information Report and thereafter the petitioner was falsely implicated in connection with the said case, rather he has become scape goat while discharging his public duties.
11. Petitioner further stated that no specific case has been made out by the police authorities in the First Information Report and he was falsely implicated in the aforesaid criminal case.
12. Learned Advocate for the petitioner submitted that –
- i. The Learned Magistrate has failed to appreciate that the allegation made in the First Information Report has already been dealt with by him in the proceeding arose out of Simlapal P.S. GDE No. 113/2010 dated 3.3.2010 under Section 41 of the Code of Criminal Procedure

which was ultimately disposed of by him but no where it was established that the allegations made by the owner of the vehicle i.e. the opposite party no. 2 has been well established.

ii. The Learned Magistrate did not examine at all by documentary evidence before taking cognizance of the said complaint made by the opposite party no. 2 being Case No. 13 MP/2010 and as such, the proceeding was not sustained in the eye of law.

iii. The First Information Report is vague, fabricated and without having any basis and as such, the same was liable to be set aside forthwith by this Hon'ble Court.

iv. The Learned Magistrate did not consider at all that there was lacking of ingredients of the provisions mentioned in the complaint and that too the complainant and other witnesses were not examined before passing that order dated 9.3.2010 by which the said complaint was directed to be treated as First Information Report and start investigation and as such, the said proceeding was bad in law and was liable to be set aside forthwith.

13. The Learned Advocate for the State submitted at such a preliminary stage the proceedings should not be quashed as there were sufficient materials on record indicating the involvement of the petitioner in the instant case.

14. The allegations were to the effect that the opposite party no. 2 had been a business woman operating a transport business through two ten-wheeler trucks bearing registration no. WB 67 -6842 and WB-15D-0585. The said

trucks were engaged with Rahul Trading Co. Jalpaiguri and Rashmi Cement Pvt. Ltd. for transporting stone slabs. On 18.02.2010 the said two trucks reached Bhutan and unloaded stone slabs for which they received Rs. 35,000/- as carrying charges. On 24.02.2010 the said two trucks were loaded with dolomite stones for carrying it to Jhargram. On 26.02.2010 the husband of the opposite party no. 2 came to Fulberia Dadabhai Hotel at Barjora where after taking dinner, the husband of the opposite party no. 2 and her drivers and khalasis went to sleep in their truck. Thereafter the driver of the truck being no. WB-67/6842 and the helper of the truck no. WB-15D-0585 escaped with the truck along with Rs. 35,000/- and dolomite stone secretly. The other helper informed the husband of the opposite party no. 2 regarding such act of the driver at around 05:00 a.m. Thereafter the husband of the opposite party no. 2 immediately informed Simlipal Police Station over phone when the present petitioner received the phone and thereafter stopped the truck at Bikrampur. The husband of the opposite party no. 2 thereafter reached Simlipal Police Station. There the petitioner informed him that there was no document or money in the truck and he was ready to release the truck but the husband of the opposite party no. 2 was required to pay him Rs. 20,000/- and he would not make any complaint against the driver and the helper who fled away with the truck. In case he paid Rs. 20,000/- the petitioner would hand over the vehicle documents to him or else his truck would be kept in the Police Station. Thereafter on 01.03.2010 when the opposite party no. 2 went to the Police Station, the

husband of the opposite party no. 2 lodged a complaint against the petitioner with S.P. Bankura. Thereafter on 03.03.2010 a case under Section 41 of the Code of Criminal Procedure was registered being G.D.E. No. 113 dated 03.03.2010 whereby the petitioner seized the truck and arrested the driver. Thereafter the petitioner threatened the husband of the opposite party no. 2 that in case he complained against the petitioner he would implicate him as a Maoist/terrorist in false case.

15. The Learned Advocate for the petitioner submitted that sanction under the provision of Section 197 of the Code of Criminal Procedure was not obtained and the instant proceedings against the petitioner was not maintainable.

16. On 19.11.2010, the Government of West Bengal was pleased to direct that the provision of Section 197 of the Code of Criminal Procedure shall apply to all subordinate ranks of police force.

17. Section 197 of Cr.P.C. stated as follows:

**“Section 197. Prosecution of Judges and public servants.-**

*(1) When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction 1[save as otherwise provided in the Lokpal and Lokayuktas Act, 2013 (1 of 2014)]--*

*(a) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the Union, of the Central Government;*

*(b) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence*

*employed, in connection with the affairs of a State, of the State Government:*

*2[Provided that where the alleged offence was committed by a person referred to in clause (b) during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force in a State, clause (b) will apply as if for the expression "State Government" occurring therein, the expression "Central Government" were substituted.]*

*3[Explanation.--For the removal of doubts it is hereby declared that no sanction shall be required in case of a public servant accused of any offence alleged to have been committed under section 166A, section 166B, section 354, section 354A, section 354B, section 354C, section 354D, section 370, section 375, 4[section 376A, section 376AB, section 376C, section 376D, section 376DA, section 376DB] or section 509 of the Indian Penal Code (45 of 1860).]*

*(2) No Court shall take cognizance of any offence alleged to have been committed by any member of the Armed Forces of the Union while acting or purporting to act in the discharge of his official duty, except with the previous sanction of the Central Government.*

*(3) The State Government may, by notification, direct that the provisions of sub-section (2) shall apply to such class or category of the members of the Forces charged with the maintenance of public order as may be specified therein, wherever they may be serving, and thereupon the provisions of that sub-section will apply as if for the expression "Central Government" occurring therein, the expression "State Government" were substituted.*

*5[(3A) Notwithstanding anything contained in sub-section (3), no court shall take cognizance of any offence, alleged to have been committed by any member of the Forces charged with the maintenance of public order in a State while acting or purporting to act in the discharge of his official duty during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force therein, except with the previous sanction of the Central Government.*

*(3B) Notwithstanding anything to the contrary contained in this Code or any other law, it is hereby declared that any sanction accorded by the State Government or any cognizance taken by a court upon such sanction, during the period commencing on the 20th day of August, 1991 and ending with the date immediately preceding the date on which the Code of Criminal Procedure (Amendment) Act, 1991 (43 of 1991), receives the assent of the President, with respect to an offence alleged to have been committed during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force in the State, shall be invalid and it shall be competent for the Central Government in such matter to accord sanction and for the court to take cognizance thereon.]*

*(4) The Central Government or the State Government, as the case may be, may determine the person by whom, the manner in which, and the offence or offences for which, the prosecution of such Judge, Magistrate or public servant is to be conducted, and may specify the Court before which the trial is to be held.*

18. A report was submitted by the Inspector-in-Charge, Simlipal Police Station to the Learned A.C.J.M., Bankura. The said report revealed on 03.01.2010 the opposite party no. 2 had lodged a missing diary at Bankura Police Station vide G.D.E. No. 124 dated 03.01.2010 relating to missing of the vehicle documents. There was a dispute regarding wages in between the driver and husband of the opposite party no. 2 for which the driver fled away the loaded truck.
19. This Hon'ble Court in Dr. Nazrul Islam Vs. Basudeb Banerjee & Ors. reported in (2022) 2 Cal LT 130 wherein it was held that even if a person wants to invoke the provisions of Section 156(3) of the Code of Criminal Procedure against the public servant, valid sanction under Section 197 of

the Code of Criminal Procedure is required to be taken into consideration to prevent a public servant from being falsely harassed because of the rigorous of law.

20. In the case of *Dr. Nazrul Islam vs Basudeb Banerjee and Others*<sup>1</sup>, this court observed the following:-

*“37. Having regard to the subject-matter by way of which the petitioner has attempted to invoke the provisions of Section 156(3) of the Code of Criminal Procedure against the public servants this Court is of the opinion that as the provision of Section 197 of the Code of Criminal Procedure has been incorporated in the statute, the same has been for a meaningful purpose of allowing the public servants to discharge their duties without fear or favour or without any anticipation of being harassed because of the rigours of law. Therefore, ordinarily a valid sanction would be required in a proceeding where the provisions of Section 156(3)CrPC are invoked against public servants. However, in this case substantive offences as alleged have not been made out, so the issue of sanction is an additional consideration.”*

21. The Hon’ble Supreme Court held the following in **A. Sreenivasa Reddy v. Rakesh Sharma**<sup>2</sup>:

*“41. Sub-section (1) of Section 197CrPC shows that sanction for prosecution is required where any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in discharge of his official duty. Article 311 of the Constitution lays down that no person, who is a member of a civil service of the Union or State or holds a civil post under the Union or State, shall be removed by an authority subordinate to that by which he was appointed. It, therefore, follows that protection of sub-section (1) of Section 197CrPC is available*

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<sup>1</sup>2022 SCC Online Cal 183

<sup>2</sup>(2023) 8 SCC 711

only to such public servants whose appointing authority is the Central Government or the State Government and not to every public servant.

**42.** The word “sanction” has not been defined in CrPC. The dictionary meaning of the word “sanction” is as under:

*“Webster's Third New International Dictionary : Explicit permission or recognition by one in Authority that gives validity to the act of another person or body; something that authorizes, confirms, or countenances.*

*The New Lexicon Webster's Dictionary : Explicit permission given by someone in Authority.*

*The Concise Oxford Dictionary : Encouragement given to an action, etc. by custom or tradition; express permission, confirmation or ratification of a law, etc. authorize, countenance, or agree to (an action, etc.)*

*Stroud's Judicial Dictionary : Sanction not only means prior approval; generally it also means ratification.*

*Words and Phrases : The verb ‘sanction’ has a distinct shade of meaning from ‘authorize’ and means to assent, concur, confirm or ratify. The word conveys the idea of sacredness or of Authority.*

*The Law Lexicon by RamanathaIyer : Prior approval or ratification.”*

*In 78 Corpus Juris Secundum at p. 579 different meanings have been given to the word as a noun and as a verb. As a noun it means penalty or punishment provided as a means of enforcing obedience to a law and in a wider sense an authorisation of anything and it may convey the idea of authority. As a verb “sanction” is defined as meaning to assent, concur, confirm or ratify. In United States v. Tillinghast [United States v. Tillinghast, 55 F 2d 279 (DRI 1932)] , it was held that where legal rights are involved it is doubtful whether it should be construed as requiring less than an unmistakable expression of approval.*

**43.** In Section 197CrPC, the word “sanction” has been used as a verb and, therefore, it will mean to assent, to concur or approval.

**44.** The legislature has given great importance to sanction as is evident from the Scheme of CrPC. Section 216CrPC gives power to the court to alter or add to any charge at any time before judgment is pronounced but sub-section (5) thereof provides that if the offence stated in the altered or added charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a

*prosecution on the same facts as those on which the altered or added charge is founded. This was also emphasised by the Privy Council in the leading case of Gokulchand Dwarkadas Morarka v. R. [Gokulchand Dwarkadas Morarka v. R., 1948 SCC OnLine PC 3 : (1947-48) 75 IA 30 : AIR 1948 PC 82] , where in para 9 it was observed as follows at IA at p. 38 : AIR PC at p. 84 : (SCC OnLine PC)*

*“... The sanction to prosecute is an important matter; it constitutes a condition precedent to the institution of the prosecution and the Government have an absolute [Ed. : This being a pre-Constitution case, the question arises whether the Government after coming into force of the Constitution has absolute discretion in any matter (other than possibly in matters of national security and foreign policy), as all exercise of Governmental power would appear to be governed by Article 14 and the rest of Part III of the Constitution.] discretion to grant or withhold their sanction. They are not, as the High Court seem to have thought, concerned merely to see that the evidence discloses a prima facie case against the person sought to be prosecuted.”*

22. In **Indra Devi v. State of Rajasthan**<sup>3</sup> the Hon’ble Supreme Court held the following:

*“10. We have given our thought to the submissions of the learned counsel for the parties. Section 197 CrPC seeks to protect an officer from unnecessary harassment, who is accused of an offence committed while acting or purporting to act in the discharge of his official duties and, thus, prohibits the court from taking cognizance of such offence except with the previous sanction of the competent authority. Public servants have been treated as a special category in order to protect them from malicious or vexatious prosecution. At the same time, the shield cannot protect corrupt officers and the provisions must be construed in such a manner as to advance the cause of honesty, justice and good governance. (See Subramanian Swamy v. Manmohan Singh [Subramanian Swamy v. Manmohan Singh, (2012) 3 SCC 64 : (2012) 1 SCC (Cri) 1041 : (2012) 2 SCC (L&S) 666] .) The alleged indulgence of the officers in cheating, fabrication of records or misappropriation cannot be said to be in*

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<sup>3</sup>(2021) 8 SCC 768

*discharge of their official duty. However, such sanction is necessary if the offence alleged against the public servant is committed by him "while acting or purporting to act in the discharge of his official duty" and in order to find out whether the alleged offence is committed "while acting or purporting to act in the discharge of his official duty", the yardstick to be followed is to form a prima facie view whether the act of omission for which the accused was charged had a reasonable connection with the discharge of his duties. (See State of Maharashtra v. Budhikota Subbarao [State of Maharashtra v. Budhikota Subbarao, (1993) 3 SCC 339 : 1993 SCC (Cri) 901] .) The real question, therefore, is whether the act committed is directly concerned with the official duty."*

23. In **Om Prakash v. State of Jharkhand**<sup>4</sup>, the Hon'ble Supreme Court held the following:

*"34. In Matajog Dobey [AIR 1956 SC 44 : 1956 Cri LJ 140 : (1955) 2 SCR 925] the Constitution Bench of this Court was considering what is the scope and meaning of a somewhat similar expression "any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty" occurring in Section 197 of the Criminal Procedure Code (5 of 1898). The Constitution Bench observed that no question of sanction can arise under Section 197 unless the act complained of is an offence; the only point to determine is whether it was committed in the discharge of official duty. On the question as to which act falls within the ambit of abovequoted expression, the Constitution Bench concluded that there must be a reasonable connection between the act and the discharge of official duty; the act must bear such relation to the duty that the accused could lay a reasonable, but not a pretended or fanciful claim that he did it in the course of performance of his duty. While dealing with the question whether the need for sanction has to be considered as soon as the complaint is lodged and on the allegations contained therein, the Constitution Bench referred to Hori Ram Singh [AIR 1939 FC 43 : (1939) 1 FCR 159] and observed that at first sight, it seems as though there is some support for this view in Hori Ram Singh [AIR 1939 FC 43 : (1939) 1 FCR 159] because Sulaiman, J. has observed in the said judgment that as the prohibition is against the institution itself, its applicability must be judged in the first instance at the earliest stage of institution and Varadachariar, J. has also stated that: (Matajog Dobey case [AIR 1956 SC 44 : 1956 Cri LJ 140 : (1955) 2 SCR 925] , AIR p. 49, para 20)*

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<sup>4</sup>(2012) 12 SCC 72

*“20. ... the question must be determined with reference to the nature of the allegations made against the public servant in the criminal proceedings.”*

*It is pertinent to note that the Constitution Bench has further observed that a careful perusal of the later parts of the judgment however show that the learned Judges did not intend to lay down any such proposition. The Constitution Bench quoted the said later parts of the judgment as under: (Matajog Dobey case [AIR 1956 SC 44 : 1956 Cri LJ 140 : (1955) 2 SCR 925] , AIR pp. 49-50, para 20)*

*“20. ... Sulaiman, J. refers to the prosecution case as disclosed by the complaint or the ‘police report’ and he winds up the discussion in these words: (Hori Ram Singh case [AIR 1939 FC 43 : (1939) 1 FCR 159] , AIR p. 52 : FCR p. 179)*

*‘... Of course, if the case as put forward fails, or the defence establishes that the act purported to be done [is] in execution of duty, the proceedings will have to be dropped and the complaint dismissed on that ground.’*

*The other learned Judge also states: (Hori Ram Singh case [AIR 1939 FC 43 : (1939) 1 FCR 159] , AIR p. 55 : FCR p. 185)*

*‘... At this stage, we have only to see whether the case alleged against the appellant or sought to be proved against him relates to acts done or purporting to be done by him in the execution of his duty.’*

*It must be so. The question may arise at any stage of the proceedings. The complaint may not disclose that the act constituting the offence was done or purported to be done in the discharge of official duty; but facts subsequently coming to light on a police or judicial inquiry or even in the course of the prosecution evidence at the trial, may establish the necessity for sanction.*

*Whether sanction is necessary or not may have to be determined from stage to stage. The necessity may reveal itself in the course of the progress of the case.”*

*The legal position is thus settled by the Constitution Bench in the above paragraph. Whether sanction is necessary or not may have to be determined from stage to stage. If, at the outset, the defence establishes that the act purported to be done is in execution of official duty, the complaint will have to be dismissed on that ground.”*

24. The petitioner alleged to have committed the offence acting in his official capacity and therefore in view of the provision under Section 197 of the Code of Criminal Procedure and the cited judgments prior sanction from the government was necessary to institute criminal proceedings against the

petitioner acting in the capacity of a public servant and such sanction was not obtained.

25. A perusal of the materials on the case diary revealed the dispute between the complainant opposite party and the driver and khalasi. The allegation against the present petitioner does not constitute an offence to be cognizable in nature. Apart from verbal assertions, there is no documentary evidence to prove the existence of the sum of Rs. 35000/- in the seized truck as aforesaid. The allegations explicit in the complaint are improbable and presumably a result of discontentment and grudge. To allow the proceedings to continue before the Trial Court on such vague and bold allegations will result in abuse of the process of law.

26. In the case of ***State of Haryana and Others v. Bhajan Lal and Others***<sup>5</sup> the Hon'ble Supreme Court observed as follows :

*“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.*

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<sup>5</sup> 1992 SCC(Cri) 426

*(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.”*

27. In view of the above discussions, the proceeding being G.R. No. 260/2011 arising out of Simlapal P.S. Case No. 23/2011 dated 15.06.2011 under Sections 406/420/12B/384 of the Indian Penal Code pending before the Learned Additional Chief Judicial Magistrate, Khatra, Bankura is quashed.
28. The criminal revisional application being CRR 2231 of 2011 is allowed.
29. Accordingly, CRR 2231 of 2011 stands disposed of.
30. There is no order as to cost.
31. Let the copy of this judgment be sent to the Learned Trial Court as well the police station concerned for necessary information and compliance.
32. All parties shall act on the server copy of this judgment duly downloaded from the official website of this Court.

**(Ananya Bandyopadhyay, J.)**