

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.R. 3375 of 2011

**Sri Krishanu Banik
-Vs-
The State of West Bengal and Ors.**

For the Petitioner	: Mr. Milon Mukherjee Mr. Soumya Basu Roy Chowdhury
For the State	: Mr. Binay Panda Mr. Puspita Saha
Heard on	: 07.02.2024, 03.04.2024, 16.08.2024
Judgment on	: 04.12.2024

Ananya Bandyopadhyay, J.:-

1. The instant revisional application has been filed by the petitioner praying for quashing of a proceeding being G.R. Case No.2571 of 2010, arising out of Domjur P.S. Case No.305 of 2010 dated 22.06.2010 under Sections 186/353/506 of the Indian Penal Code and under Sections 179/184 of the Motor Vehicles Act, 1988 pending before the court of Learned 3rd Judicial Magistrate, Howrah.
2. The instant Domjur P.S. Case No.305 dated 22.06.2011 (G.R. No.2571 of 2010) was initiated on the basis of a complaint instituted by the opposite party no.2 before the Inspector-in-Charge, Domjur P.S., Domjur, Howrah to the effect that on 22.06.2010 at about 10:20 hrs., when the

complainant along with other police personnels were performing the traffic duty over the Pakuria Fly-Over, he found a red-coloured “Chevrolet Travera Car” bearing Registration No.WB20G/8833 approaching from Pakuria side towards Salap side overtaking other vehicles at a very high speed.

3. It was further alleged that the complainant tried to stop the said vehicle, but the driver of the said vehicle tried to escape but later on, the complainant was able to stop the said vehicle. Further allegations were that the complainant asked the person driving the vehicle to show his driving license, registration certificate of the vehicle while he was standing in front of the said vehicle.
4. It was also alleged that the person driving the vehicle refused to produce the driving license and registration certificate and told him that he was an Advocate of an Hon’ble Court and he also alleged to have refused to sign the compound slip and subsequently left with his vehicle.
5. On receipt of the aforesaid petition of complaint, the said Domjur P.S. Case was started and the investigation was taken up. In the meantime, on the conclusion of the investigation, Charge-Sheet no.102 of 2011 dated 25.02.2011 under Sections 186/353/506 of the Indian Penal Code and under Sections 179/184 of Motor Vehicles Act, 1988 were submitted.
6. Considered the rival contentions of the Learned Advocates representing the petitioner as well as the State.

7. In **State of Haryana v. Bhajan Lal**¹ the Hon'ble Supreme Court held the following:-

“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.

¹1992 Supp (1) SCC 335

(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.”

8. The materials on record did not constitute a cognizable offence and to allow to continue with the trial of the instant police case will result in abuse of process of law.
9. In view of the above discussions, the proceeding being G.R. Case No.2571 of 2010, arising out of Domjur P.S. Case No.305 of 2010 dated 22.06.2010 under Sections 186/353/506 of the Indian Penal Code and under Sections 179/184 of the Motor Vehicles Act, 1988 pending before the court of Learned 3rd Judicial Magistrate, Howrah is quashed.
10. Under such circumstances, the instant criminal revisional application being CRR 3375 of 2011 is allowed.

11. Accordingly, CRR 3375 of 2011 is disposed of.
12. There is no order as to costs.
13. Case Diary, if any, to be returned forthwith.
14. Let the copy of this judgment be sent to the Learned Trial Court as well as the police station concerned for necessary information and compliance.
15. All parties shall act on the server copy of this judgment duly downloaded from the official website of this court.

(Ananya Bandyopadhyay, J.)