

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

HEARD ON: 17.09.2025  
DELIVERED ON: 17.09.2025

**CORAM:  
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)**

**C.R.R 63 of 2025  
Smt. Shila Mullick & Anr.  
Vs.  
The State of West Bengal & Anr.**

|                                 |                                          |
|---------------------------------|------------------------------------------|
| <b>Mr. Mohit Gupta</b>          |                                          |
| <b>Mr. Shameek Chakraborty</b>  |                                          |
| <b>Ms. Ruxmini Basu Roy</b>     | <b>.....For the petitioners</b>          |
| <b>Mr. Ranabir Roychowdhury</b> |                                          |
| <b>Mr. Dipankar Pramanick</b>   | <b>.....For the State</b>                |
| <b>Mr. Z. Rahaman</b>           |                                          |
| <b>Mr. Prantik Sarkar</b>       | <b>.....For the opposite party no. 2</b> |

**JUDGMENT**

*(Judgment of the Court was delivered by Chaitali Chatterjee (Das) J.)*

1. This instant criminal has been filed under section 528 of the BNSS, 2023 corresponding to section 401 read with section 482 of the Code of Criminal Procedure, 1973 for quashing of the proceeding pending before the learned Additional Chief Judicial Magistrate, Kolkata in connection with Jorabagan Police Station Case No. 122 of 2023 dated 25<sup>th</sup> December, 2023 under sections 120B/34/323/34/354/420/406/379/506/509 of the Indian Penal Code (G.R. Case No. 1326 of 2023).
2. It is the specific case of the petitioners, who are the octogenarian and septuagenarian persons respectively suffering from old age ailments that on 10<sup>th</sup> November, 2023, on

the basis of a petition lodged under section 156(3) of the Code of Criminal Procedure, 1973 filed by the de facto complainant before the Court of the learned Additional Chief Judicial Magistrate, Bankshall Court, Calcutta the direction was given to the Officer-in-Charge, Jorabagan Police Station to treat the same as an FIR and to investigate the matter on the basis of the allegations made therein.

3. The allegations prima facie alleges that on 22<sup>nd</sup> July, 2023, the accused persons being the aunts, uncle and maid of the aunt of the complainant in furtherance of their common intention entered into a criminal conspiracy and in pursuant to that borrowed loan from the father of the complainant and stole various inherited properties of the complainant by criminally breaching her trust in order to cheat her.
4. Further allegation was that the accused persons also criminally intimidated the complainant over the issue of the property dispute and thereafter on 24<sup>th</sup> October, 2023 on protest by the complainant the accused persons wrongfully restrained the complainant, abused and assaulted her and thereby outraged her modesty. The complaint was lodged not only against the present petitioners but also against the maid servant and other associates of the present petitioners.
5. It is the specific case of the petitioners that they have been falsely implicated in this case by the investigating agency and they are totally innocent and had no manner of involvement with the alleged incident. After completion of the investigation, the investigating agency submitted the charge sheet vide charge sheet no. 11 of 2024 dated 25<sup>th</sup> October, 2024 under sections 34/323/354/506/509/114 of the Indian Penal Code against the four accused persons.

6. The learned advocate representing the present petitioners specifically argued that the initial allegations, as were levelled by way of filing the application under section 156(3) Cr.P.C. were not found to be substantiated in course of interrogation and therefore the charge sheet does not contain the charges under sections 420/375 Indian Penal Code.
7. It is further submitted that the written complaint itself would reveal that no allegation to attract the aforementioned provisions under which the charge sheet has been submitted, can be found against the present petitioners. That apart, a partition suit is pending between the uncle and de facto complainant and others and because of family feud exists between the parties, this complaint has been lodged fakely impleading the petitioners. Accordingly, the learned advocate for the petitioners prays for quashing of the proceeding sofar as the present petitioners are concerned.
8. Learned advocate representing the opposite party no. 2 raises vehement objection and would submit that the contents of the FIR was clearly against the present petitioners, who, along with their associates have aided and abetted using filthy and abusive language and intimidated resulting in commission of subsequent offences.
9. That apart, the petitioner no. 2 is not at all bed ridden, as submitted before this Court on behalf of the opposite party no. 2.
10. In order to appreciate the contention, the learned advocate representing the opposite party no. 2 has relied upon the decision reported in **(2013) 3 SCC 330 :Rajiv Thapar & Anr. v. Madan Lal Kapoor**, where it was held that while exercising the power under section 482 Cr.P.C. for quashing of the proceeding, for that would prevent abuse of

process of the court and secure the ends of justice four tests are to be taken out and those are;

1. *“Step one: whether the material relied upon by the accused is sound, reasonable, and indubitable i.e. the material is of sterling and impeccable quality?”*
2. *Step two: whether the material relied upon by the accused would rule out the assertions contained in the charges levelled against the accused i.e. the material is sufficient to reject and overrule the factual assertions contained in the complaint i.e. the material is such as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false?*
3. *Step three: whether the material relied upon by the accused has not been refuted by the prosecution/complainant; and/or the material is such that it cannot be justifiably refuted by the prosecution/complainant?*
4. *Step four: whether proceeding with the trial would result in an abuse of process of the Court and would not serve the ends of justice?”*

11. Further reliance was placed on the decision reported in **AIR 2021 SC 3931: Kaptan Singh v. State of Uttar Pradesh & Ors.**, where also, taking note of the decision of **State of Haryana v. Bhajan Lal : 1992 Supp (1) SCC 335**, it was held: *“exercise of powers under Section 482 Cr.P.C. to quash the proceedings is an exception and not a rule. It is further observed that that inherent jurisdiction under Section 482 Cr.P.C. though wide is to be exercised sparingly, carefully and with caution.”*
12. In view of the above referred contentions, as made before this Court, the question falls for consideration is that whether by virtue of invoking the power under section 482 Cr.P.C. , where the charge sheet has been submitted and the trial is on the verge of commencement, the same can be quashed so far as the present petitioners are concerned.
13. On a careful perusal of the decision, as relied upon by the learned advocate representing the opposite party no. 2, it can be seen that it was decided by the Hon’ble

Court, to invoke the inherent jurisdiction to quash the proceeding on the basis of defence material, High Court has to be fully satisfied that the material produced or relied upon by accused leads to a conclusion that his/her defence is based on sound, reasonable and indubitable facts; b) rules out and discloses assertions contained in charges levelled against accused without necessity of recording any evidence; c) should not be refuted or alternatively cannot be justifiably refuted, being of sterling and impeccable quality that would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false and d) whether proceedings that the trial would result in an abuse of the process of Court and would not serve the ends of justice.

14. Therefore, before invoking the jurisdiction, the Court is to be circumspect enough after going through the content of the FIR *qua* the written complaint as to whether any such case has been made out or any role attributed to the accused persons in order to attract the said charges.
15. That apart, whether the contents of the written complaint discloses commencement of any cognizable offence, serious in nature or not for which the trial is necessary.
16. In the instant case, on a careful perusal of the contents of the FIR, primarily, it can be seen that no single averment is there excepting in paragraph 13, where the contents are primarily appeared to be verbal threatening for which the present petitioners of such an age should go and face the trial and to appear before the Court. More so, the dispute basically pertains to civil in nature for which the civil suit is also pending and most of the allegations are found not against the present petitioners but against the other

accused persons, who are not before this Court. Therefore, this Court refrains from making any observation in this respect.

17. In this case since the charge sheet has been submitted, the material/evidence collected during the investigation may also be considered and on perusal of the case diary as produced before this Court also no incriminating materials are found against the present petitioners for which they need to face the trial.
18. The learned advocate representing the State/opposite party also candidly submits nothing can be found from the statements recorded by the various witnesses so far the present petitioners are concerned. So, no case is made out to attract the charges levelled against the petitioners.
19. Therefore, this Court finds that if the trial is allowed to progress so far as the present petitioners are concerned and compel them to appear before the trial Court regularly during the course of trial, that would amount to gross abuse of the process of law and therefore, this Court finds merit in this revisional application and the same stands allowed.
20. Let the proceedings pending before the Additional Chief Judicial Magistrate, Kolkata in G.R. Case No. 1326 of 2023 against the present petitioners be quashed.
21. No costs.
22. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

**(CHAITALI CHATTERJEE (DAS, J.)**