

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. 16 of 2018

With

CRAN 19 of 2025 & CRAN 20 of 2025

Sri Amarnath Biswas

Versus

The State of West Bengal & Another

For the Petitioner	:	Mr. Sudipta Maitra, Ld. Sr. Adv. Mr. Pawan Kumar Gupta, Adv. Mr. Saugata Mitra, Adv. Ms. Sofia Nesar, Adv. Mr. S. Sett, Adv. Mr. N. Kr. Gupta, Adv. Ms. Soma Chakraborty, Adv. Mr. Subhadeep Maitra, Adv.
For the Opposite party No. 2	:	Mr. Surajit Basu, Adv.
For the State	:	Mr. Anand Keshari, Adv. Mr. Abhishek Verma, Adv.
Heard on	:	03.09.2025
Judgment on	:	03.09.2025

Ajay Kumar Gupta, J:

1. The instant matter was listed under the heading “To Be Mentioned” at the behest of the petitioner and opposite party no.2/defacto complainant in view of the fact that the parties have amicably settled their dispute and joint compromise petition filed praying for quashing of the impugned proceedings.

2. The petitioner, being the accused, has preferred this instant application under Section 482 of the Code of criminal procedure, 1973 seeking quashing of proceeding being G.R. Case No. 1245 of 2017 corresponding to Arsha Police Station case No.102 of 2017, dated 22.08.2017 registered under section 406/409/120B/471/468/420/34 of the Indian Penal Code, 1860 which is now pending before learned Chief Judicial Magistrate, Purulia.

3. Learned counsel appearing on behalf of the respective parties submits that disputes between the parties have been settled out of Court. A joint petition for quashing of the proceedings has accordingly been filed by the petitioner and the President of Arsha High School, who is the Opposite party no.2/ de facto complainant. A copy of the resolution adopted by the School Board has been filed by the President of the School/opposite party no.2, is taken in record.

4. On the other hand, the learned counsel appearing on behalf of the State strongly opposes the prayer for quashing of the instant

case on the ground that the allegations in the case are serious in nature, involving public money and that the case started under Section 409 of the IPC together with other sections against the accused and initiated investigation.

5. In this context, Mr. Maitra, learned senior counsel submits even if on merit this case is liable to be quashed as the FIR was registered pursuant to an order passed by Ld. Trial Court passed in an application filed under Section 156(3) by the erstwhile President of the School alleging misappropriation of funds of Rs.2,60,000/- . It is submitted that the said application was not in accordance with law inasmuch as it was vague, non-specific & unsupported by an affidavit. The Ld. Trial Court, despite such infirmities directed registration of FIR which resulted in abuse of process of law.

6. The application was filed by the de-facto complainant without supporting by an affidavit. The learned Trial Court should not have passed order directing registration of FIR without verify the truth and the veracity of the allegations. The allegations must have to be supported by an affidavit so that the person making the application should be conscious and also endeavour to see that no false affidavit is made to protect unnecessary harassment of the accused.

7. The allegations of misappropriation of fund by criminal breach of trust were false, fabricated and based on manufactured story.

Petitioner is innocent and he has been false implicated. To bolster of his contention, the learned senior counsel places reliance of judgments passed by the Hon'ble Supreme Court in the case of ***Priyanka Srivastava and another Vs. State of Uttar Pradesh and others***¹ and ***Babu Venkatesh and others Vs. State of Karnataka and another***² indicating that the application filed by the erstwhile President before the trial court under Section 156(3) was without supporting an affidavit and if the application is not supported by affidavit credence of allegations cannot be satisfied.

8. Upon perusal a copy of application annexed with the revisional application, this Court also does not find the said application was not supported by any affidavit, same should have affirmed by the complainant to remove doubt of frivolous complaints and ensure applicant take responsibility for his claims.

9. In view of the facts, the allegations or contentions whatever made in the said application could not have been fully reliable and repose confidence on the allegations but the trial court overlook the such provisions and directed to officer-in-charge to registered FIR against the petitioner. Now, after realisation of mistake by erstwhile president, the present President himself come forward and filed a joint petition of compromise praying for quashing of the impugned proceeding on the basis of resolution taken by the board.

¹ (2015) 6 SCC 287

² (2022) 5 SCC 639

10. The Hon'ble Supreme Court specifically held in paragraphs 30 & 31 as follows:

“Para 30: *In our considered opinion, a stage has come in this country where Section 156(3) CrPC applications are to be supported by an affidavit duly sworn by the applicant who seeks the invocation of the jurisdiction of the Magistrate. That apart, in an appropriate case, the learned Magistrate would be well advised to verify the truth and also can verify the veracity of the allegations. This affidavit can make the applicant more responsible. We are compelled to say so as such kind of applications are being filed in a routine manner without taking any responsibility whatsoever only to harass certain persons. That apart, it becomes more disturbing and alarming when one tries to pick up people who are passing orders under a statutory provision which can be challenged under the framework of the said Act or under Article 226 of the Constitution of India. But it cannot be done to take undue advantage in a criminal court as if somebody is determined to settle the scores.*

Para 31: *We have already indicated that there has to be prior applications under Section 154(1) and 154(3) while filing a petition under Section 156(3). Both the aspects should be clearly spelt out in the application and necessary documents to that effect shall be filed. The warrant for giving a direction that an application under Section 156(3) be supported by an affidavit is so that the person making the application should be conscious and also endeavour to see that no false affidavit is made. It is because once an affidavit is found to be false, he will be liable for prosecution in accordance with law. This will deter him to casually invoke the authority of the Magistrate under Section 156(3). That apart, we have already stated that the veracity of the same can also be verified by the learned Magistrate, regard being had to the nature of allegations of the case. We are compelled to say so as a number of cases pertaining to fiscal sphere, matrimonial*

dispute/family disputes, commercial offences, medical negligence cases, corruption cases and the cases where there is abnormal delay/laches in initiating criminal prosecution, as are illustrated in Lalita Kumari are being filed. That apart, the learned Magistrate would also be aware of the delay in lodging of the FIR.”

11. Upon perusal of resolution taken by the School Authority, it reveals after going through the Audit Report they could not find any misappropriation of fund. In addition, it seems the erstwhile president had filed an application under Section 156(3) of CrPC only on misconception. Application was without supporting by an affidavit, Learned Trial Court ignored the said fact while passing direction upon the Officer-in-Charge for registration of FIR. The Hon’ble Supreme Court categorically held that application filed under section 156(3) of the CrPC must be supported by an affidavit. In the back drop of aforesaid facts, if the Proceedings pending before the Learned Trial Court, if not quashed, it would put the accused prejudice and great oppression.

12. For the foregoing reasons, this court of the considered view and reached to the conclusion that if the criminal proceedings are allowed to continue against the petitioner, the same will be nothing but sheer abuse of process of law and travesty of justice. This is a fit case, wherein, the high Court can exercise its inherent power under section 482 of the CrPC for the purpose of quashing the criminal

proceedings. Even if for sake of argument, the criminal allowed to be continued same would not fructify because possibility of conviction is bleak and remote due to compromise, whatsoever reasons, made between the parties

13. Accordingly, an application for quashing of the impugned proceeding being **CRAN 20 of 2025** is **allowed**.

14. In view of the above, the instant revisional application is disposed of. Connected pending application, if any, also disposed of.

15. Consequently, the proceedings being G.R. Case No. 1245 of 2017 corresponding to Arsha Police Station Case No.102 of 2017, Dated 22.08.2017 under section 406/409/120B/471/468/420/34 of the Indian Penal Code, 1860 now pending before learned Chief Judicial Magistrate, Purulia is hereby quashed insofar as the present petitioner is concerned.

16. Interim order, if any, stands vacated.

17. Let a copy of this order be communicated to the learned court below for necessary information.

18. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties after observing all legal formalities.

(Ajay Kumar Gupta, J)

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