IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE

BEFORE:
THE HON'BLE JUSTICE UDAY KUMAR

CRR 200 of 2023
With
CRAN 2 of 2025

Ranjay Ghatak & Anr.
Vs.
State of West Bengal & Anr.

For the Petitioners	: Mr. Mrityunjoy Chatterjee Ms. Suchismita Chakraborty
For the State	: Ms. Anasuya Sinha Ld. A.P.P. Ms Puja Goswami
Hearing Concluded on	: June 20, 2025
Judgment on	: July 11, 2025

UDAY KUMAR, J.: –

1. This revisional application filed by Mr. Ranjay Ghatak and Ms. Samika Ghatak, (hereinafter referred to as the 'petitioners'), sought the extraordinary remedy of quashing of criminal proceedings initiated against them. These proceedings are encapsulated in Special Case No. 01 of 2019, which stemmed from Asansol (S) Police Station Case No. 388 of 2018, dated 17th November 2018, under Sections 420 (Cheating), 467 (Forgery of valuable security), 468 (Forgery for purpose of cheating), 471 (Using as genuine a forged document), 409 (Criminal breach of trust by public servant, or by banker, merchant, or agent), and 120B (Criminal Conspiracy) of the Indian Penal Code, following the submission of Charge Sheet No. 197 of 2019, dated 31st July 2019. Their fundamental contention rests on the assertion that the allegations, even when taken at their highest, fail to establish a prima facie case, that the initiation of the complaint suffered from an inexplicable delay, and that the entire legal action is tainted by ulterior motives, thereby constituting a manifest abuse of the legal process. The essence of the complaint, lodged by Shri Sanjay Ghatak (Opposite Party No. 2), Director of Sisan Buildcon Pvt. Ltd., revolves around allegations of forgery, cheating, criminal breach of trust, and criminal conspiracy concerning the misappropriation of company funds.

2. The factual bedrock of this legal imbroglio originates from a complaint lodged by Mr. Sanjay Ghatak, the Director of Sisan Buildcon Pvt. Ltd., (hereinafter referred to as the 'complainant'). According to the complainant's narrative, Ranjay Ghatak (petitioner no.1) was employed as a Project Supervisor, entrusted with the crucial responsibility of collecting cheques issued in favour of the company from various customers. The unfolding of events, however, took a discordant turn in January 2018, when petitioner no.1 allegedly absented himself from the project site without due intimation. Unsuccessful attempts by the complainant to establish contact led him to approach petitioner no.2, Ms. Samika Ghatak, petitioner no.1's wife. Her initial feigned ignorance concerning her husband's whereabouts, followed by a subsequent revelation that her husband had purportedly relocated to Bangalore for a new job, further deepened suspicions.

3. The gravity of the alleged misconduct or fraud became strikingly apparent in July/August 2018. During this period, several individuals approached the company's Asansol office, presenting "agreement for sale" documents that the complainant swiftly recognized as bearing his forged signatures. A deeper inquiry into these transactions revealed that these third parties had remitted payments, in the form of cheques, to petitioner no. 1 as earnest money against these purported agreements. Crucially, the subsequent investigation disclosed that these cheques, rather than being deposited into the company's official accounts as per standard procedure, had been credited to either the personal bank account of petitioner no.1 or a joint account held by both petitioners, raising immediate red flags concerning the integrity of the transactions.

4. Upon discovering these alarming discrepancies, the complainant initially reported the matter to the Asansol (S) Police Station. However, a formal First Information Report (FIR) was not registered at that immediate juncture. Consequently, on 27th September 2018, the complainant pursued a complaint under Section 156(3) of the Code of Criminal Procedure before the Learned Chief Judicial Magistrate, Paschim Bardhaman. On his direction the Asansol (S) Police Station Case No. 388 of 2018 was formally registered on 17th November 2018. Following the registration and commencement of investigation, petitioner no.1 was taken into custody on 30th December 2018, though he was subsequently enlarged on bail on 1st April 2019. Petitioner no.2, for her part, secured the protective umbrella of anticipatory bail from this Hon'ble High Court on 12th July 2019. The investigative process culminated with the submission of Charge Sheet No. 197 of 2019 on 31st July 2019, formally arraying indicting both petitioners as accused under the aforementioned sections of the IPC, thus setting the stage for the present revisional application that seeks to interrupt the judicial trajectory.

5. Mr. Mrityunjoy Chatterjee, Learned Counsel for the petitioners vehemently contended that the continuation of the criminal proceedings constitutes an abuse of the process of law. The petitioners, through their Learned Counsel, have mounted a spirited challenge to the continuation of these proceedings, positing several compelling grounds for quashing.

6. A central plank of Mr. Chatterjee's argument is the alleged inordinate and unexplained delay in lodging the initial complaint. He pointed out the gap of over a month between the complainant's purported knowledge of the incident in July/August 2018 and the formal initiation of the complaint on 27th September 2018, contending that such a lapse vitiates the prosecution's case.

7. Mr. Chatterjee further argued that Section 409 IPC would not be applicable against petitioner no.1, because he was a merely salaried employee of complainant. He would not fall within the specific categories of "public servant, banker, merchant, factor, broker, attorney or agent" as strictly defined by the statute. This contention implies that the very foundation of the more severe charge under Section 409 is misconceived. Concurrently, they maintain that even a benevolent reading of the FIR and the complainant's statement, taken at face value, utterly fails to disclose any prima facie offence against either petitioner, labelling the allegations as inherently "absurd and improbable."

8. Finally, it was submitted that the entire criminal proceeding is not a genuine pursuit of justice but rather a tool wielded with "mala fide intention" and an "ulterior motive for wreaking vengeance" upon them, painting the legal action as an abuse of the Court's process driven by "absurd and inherently improbable" allegations designed solely for his harassment. As such, these proceedings are liable to be quashed.

9. In direct opposition, Ms. Anasuya Sinha, the Learned Additional Public Prosecutor, has steadfastly resisted the revisional application, contending that the evidentiary material gathered during investigation is more than sufficient to warrant the continuation of the trial.

10. With respect to Section 409 IPC, Ms. Sinha contended that petitioner no.1, as a Project Supervisor, was entrusted with collection of company's funds, unequivocally acted as an "agent" in a fiduciary capacity. His subsequent alleged wilful diversion of these funds into his personal account, for his wrongful gain, precisely fulfils the ingredients of criminal breach of trust within the ambit of Section 409 IPC, regardless of his status as a "public servant."

11. Furthermore, Ms. Sinha emphasized the robust evidence supporting charges of cheating and forgery. This includes corroborative statements from multiple witnesses (including Shikha Guha, Dayalji Dhamji Chauhan, Amitavo Banerjee, and Deo Narayan Prasad), seizure of incriminating documents such as forged agreements and money receipts, and crucial bank statements detailing direct financial transactions from victims into the personal or joint accounts of the petitioners. Most significantly, the report from the Questioned Document Examination Bureau (QDEB), dated 29th July 2019, which affirmatively correlates Petitioner no.1's specimen signatures with those on forged money receipts, provides a compelling piece of evidence. The active involvement of petitioner no. 2, evidenced by her joint account receiving misappropriated funds, is presented as clear prima facie proof of her role in the alleged criminal conspiracy under Section 120B IPC. The prosecution firmly asserted that these complex and "disputed questions of facts" can only be unravelled through a full-fledged trial, where evidence can be properly presented, tested through cross-examination, and judicially appreciated, thus rendering a premature quashing of proceedings unwarranted and improper.

12. For proper adjudication of this revisional application, the pivotal questions are required to be determined:

a) Firstly, it must be ascertained whether the alleged delay in the lodging of the complaint is of such a critical nature as to fundamentally vitiate the entire criminal proceedings, thereby justifying their quashing. This involves assessing if the delay was deliberate and prejudicial, or if a reasonable explanation exists.

b) Secondly, a crucial legal interpretation is required to determine whether the specific role and capacity of petitioner no.1, as a salaried employee entrusted with collecting substantial company funds, *prima facie,* brings him within the purview of an "agent" under Section 409 of the Indian Penal Code.

c) Thirdly, the Court must meticulously examine whether the allegations detailed in the FIR, buttressed by the material evidence collected during the thorough investigation, collectively establish a compelling prima facie case for the commission of offences under Sections 420, 467, 468, 471, and 120B of the IPC against both petitioners, thereby warranting their exposure to trial.

d) Finally, a significant question to address is whether the present criminal proceedings can genuinely be characterized as an abuse of the process of law or if they were manifestly initiated with a mala fide intention, thereby triggering the exceptional exercise of this Court's inherent powers to quash.

13. In undertaking this analytical exercise, I think it pertinent to consider on the principles governing the exercise of inherent powers of High Court under Section 482 of the Code of Criminal Procedure. This extraordinary power to quash a criminal proceeding is not an ordinary instrument but one to be wielded sparingly and with utmost circumspection, primarily to prevent a clear abuse of the process of any Court or to otherwise secure the ends of justice. It is not designed to prematurely stifle a legitimate prosecution where the allegations, on their face, disclose the commission of a cognizable offence. Regarding the argument of delay in lodging the complaint, it is well-settled that while an unexplained and inordinate delay can cast a shadow, it is not an automatic ground for quashing unless it points towards a deliberate concoction or false implication. The trajectory of the complainant first approaching the police and then resorting to a magisterial complaint under Section 156(3) Cr.P.C. suggests a continuous effort to initiate legal action, thereby requiring a more nuanced evaluation of the delay during trial rather than an outright quashing at this preliminary stage.

14. Turning to the intricate question of the applicability of Section 409 IPC, the petitioners' narrow interpretation of "agent" is unlikely to hold sway. Jurisprudence consistently indicates that the term "agent" in this section extends beyond formal commercial agents to encompass any individual occupying a position of trust and responsibility, to whom property is entrusted in a fiduciary capacity. A project supervisor, entrusted with the collection of company funds, undeniably falls within this broader understanding of an agent in respect of such entrustment. Therefore, the allegations that petitioner no.1 misappropriated these entrusted funds for personal gain would, *prima facie*, satisfy the elements of criminal breach of trust. This specific contention, concerning the legal interpretation and application of Section 409 to the facts, undoubtedly merits examination during the course of a trial.

15. Most critically, concerning the existence of a prima facie case for cheating, forgery, and conspiracy, the material on record appears substantial. The witness statements, detailed bank account transactions showing funds diverted into the petitioners' accounts, and particularly, the scientific evidence from the handwriting expert's report directly linking petitioner no.1 to forged documents, collectively paint a picture that warrants further investigation and trial. The allegations are not frivolous or inherently improbable; rather, they are buttressed by specific instances and documentary proof gathered during the course of investigation. The Hon'ble Supreme Court, in its seminal judgment in *State of Haryana v. Bhajan Lal*, has meticulously delineated the categories under which the inherent power to quash an FIR or criminal proceedings may be exercised. The present case, with its array of evidence suggesting the commission of serious offences, does not appear to fall within those restrictive categories that would justify a premature termination of the judicial process.

16. Finally, while the petitioners' assertion of "mala fide intention" and "abuse of process" is a serious charge, it must be substantiated by concrete and objective evidence rather than mere allegations. When the allegations, coupled with the evidence collected during investigation, prima facie reveal the commission of cognizable offences, the criminal justice system cannot be halted simply on the ground of alleged ulterior motives, especially when there is no clear indication that the process itself is being used for extraneous reasons other than pursuing a criminal complaint. The facts, as presented, suggest a genuine grievance of financial misappropriation and forgery, which has been brought to the attention of law enforcement agencies. The power to quash on grounds of abuse of process is reserved for truly exceptional cases where the proceedings are patently malicious or demonstrably devoid of any legal basis, a scenario not evident from the materials before this Court.

17. In summation, having meticulously considered the detailed submissions presented by all Learned Counsels and having diligently perused the entire material on record, this Court is persuaded that the allegations leveled against the petitioners, adequately supported by the evidence gathered during the investigation, do indeed disclose *prima facie* cognizable offences. The arguments presented by the petitioners concerning the delay in lodging the complaint, the nuanced applicability of Section 409 IPC, and the broad allegations of mala fide intent, fundamentally constitute defences that necessitate a thorough examination during a full-fledged trial. This Court's inherent powers under Section 482 Cr.P.C. cannot, and should not, be invoked to prematurely truncate proceedings where genuine disputed questions of fact and law demand a comprehensive evidentiary process for their just resolution.

18. Therefore, in light of the foregoing analysis and reasoning, I find no compelling merit in the present revisional application.

19. Accordingly, the revisional application being CRR 200 of 2023, stands dismissed.

20. There shall be no order as to the cost.

21. The learned Trial Court is hereby directed to proceed with Special Case No. 01 of 2019, arising out of Asansol (S) Police Station Case No. 388 of

2018, with due expedition and strictly in accordance with law, without being swayed or influenced by any observations made herein, as these observations are solely for the purpose of deciding the instant revisional application.

22. CRAN 2 of 2025 stands disposed of, accordingly.

23. Interim order/orders, if any, stand vacated.

24. TCR, if any, shall be sent down to the trial court, at once.

25. Urgent certified copy of this judgment, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Uday Kumar, J.)