

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

Present:-

HON'BLE JUSTICE CHAITALI CHATTERJEE DAS.

CRR 436 OF 2022

Dr. JAYDEEP MAJUMDAR & ANR.

VS

THE STATE OF WEST BENGAL & ANR.

For the Petitioners : Mr. Niladri Sekhar Ghosh, Adv.

Ms. Labani Sikder, Adv.

Mr. Souvik Dey, Adv.

For the State

: Ms. Sreyashee Biswas, Adv.

Mr. Sujan Chatterjee, Adv.

For the Opposite

Party No. 2 : Mr. Mit Guha Roy, Adv.

Mr. Sourendra Nath Banerjee, Adv.

Last heard on : 11.12.2025

Judgement on : 23.12.2025

Uploaded on : 23.12.2025

CHAITALI CHATTERJEE DAS, J. :-

1. This is an application under Section 482 of Cr.Pc filed by the petitioner for quashing of the proceeding pending before the learned ACJM Alipore .

Brief resume of the case

2. The petitioners are the reputed doctors by profession. Petitioner no 2 lodged the complaint against the de-facto complainant on 14.5.2021, pursuant to which the de-facto complainant was arrested and subsequently enlarged on bail. The de-facto complainant was a domestic help and on May 14, 2021 she found the chain of her bag is open and her Aadhar card, mobile, two ATM card, Debit card, one set of key of two Almirahs and cash of Rs. 5,000/- was stolen from her bag. The petitioner no. 2 checked her bag in the last afternoon when all the items were in the bag at her room and after that she did not go outside of her house. The Opposite Party no. 2 used to work as maid-cum-aaya and stays at her house about 10 hrs. and the petitioner no.2 strongly believed that the Opposite Party no. 2 has stolen the items. On the basis of the complaint lodged by her Garfa P.S case no. 102 of 2021 dated 14.5.2021 started under Section 381 of the Indian Penal Code.

After 20 days from the date of registration of the aforesaid F.I.R against the Opposite Party no.2 she lodged a written complaint against both petitioners on June 5, 2021 alleging that after working for a period of 6 months on 17.5.2021 at about 8.30 am when she went to the house of the petitioner to collect her salary due for 1 and ½ month amounting Rs. 15,000/- and when asked for her salary, the petitioners assaulted her with fist and blows and she fell down thereafter the petitioner no 1 touched her body and abused her and then she was treated at Bagha Jatin hospital. On the basis of such complaint Garfa P.S case started against the petitioners under Sections 341/3232/354/509/114 of the Indian Penal Code. The petitioner were served

with notice under Section 41A Cr.Pc by the Investigating Officers and the petitioner duly appeared and co-operated with them. The I.O completion of the investigation submitted the charge-sheet only relying upon the statement of the Opposite Party, on 31.7.2021 against the petitioners. Having no other alternative the petitioners have come before this court for quashing of the Chargesheet and the entire proceeding.

Submissions

3. The learned Advocate of the petitioner argued that the allegations levelled against the petitioners are absurd, inherently improbable and is a counter blast to the complaint lodge d by them against the de-facto complainant. The petitioners lodged the complaint on 14.5.2021 on the basis of which she was arrested on the very date, produced b before the court and was granted bail on 15.5.2021 and hence it is absolutely improbable that despite such fact the de-facto complainant voluntarily visit the residence of the petitioners and would continue to work on 17.5.2021 that is two days of her arrest.

Further argued that the petitioner no. 2 being the legally wedded wife would abet her own husband to molest another woman that too in her presence itself is not believable by any prudent person as it is so improbable. It is equally improbable that any domestic help or employee would demand salary for 1 and half months since salary is always paid on monthly basis and therefore it is a concocted story that she asked for salary in the middle of a month without completing the entire month sounds unusual and improbable.

It is the contention of the learned advocate that the criminal proceeding is maliciously instituted by the de-facto complainant with ulterior motive only in order to wreaking vengeance out of personal grudge since the complaint was lodged against her by the petitioner no. 2. It is further submitted that there is no ingredients to attract Section 341 of the Indian Penal Code as the complaint is silent about any case of wrongful restraint. There is no whisper about the intention, act or conduct of the petitioner no 1 suggesting a case of outraging the modesty of a woman. That apart the mandatory ingredients to insult the modesty of a woman are absolutely missing in the complaint. When the principal offences as alleged failed to attract Section 341 /354 or 509 of the Indian Penal Code question of abatement of such non-existent offences does not arise. So far the allegation made in respect the offence under Section 323 of IPC, no medical evidence supporting the allegation of hurt was found during investigation. The learned Advocate further submits that as per charge sheet there are 5 charge sheeted witnesses out of whom three hearsay witness who were also not from the place of occurrence and the Learned Magistrate who recorded the statement of the witness and the I.O. The case is solely founded on the uncorroborated version of the complainant rendering the charge sheet unsustainable in law and liable to be quashed.

4. The learned Advocate has relied upon the decisions reported in ***Salib alias Shalu alias Salim vs State of U.P and Ors.*¹, *Mahmood Ali and Ors. Vs State of U.P and Ors.*², *Anita Malhotra vs Apparel Export Promotion***

¹ 2023 SCC online SC 947

² 2023 SCC Online SC 950

Council and Anr.³, Amar Chand Kundu and Ors. vs State of west Bengal and Ors⁴, Sayandeb Ghosh and Anr. vs State of west Bengal and Anr⁵, Dr. Samir Roy vs The State of West Bengal and Anr⁶, Kishore Agarwal vs The State of West Bengal and Anr.⁷, Anukul Singh vs State of Uttar Pradesh and Anr.⁸.

The Learned Advocate representing the Opposite Party on the other hand submits that there is no absurdity in the written complaint and since the charge-sheet has been submitted on completion of investigation there is limited scope of this court in exercise of the power under Section 482 Cr.Pc and the primarily with the submission of charge-sheet the allegation levelled against the petitioner is said to be established therefore the parties must face the trial. The petitioners could have filed the petition for discharge before the Learned Court since the charge has not yet been frame and has taken a short cut method to evade the trial. It is further submitted that the de-facto complainant may not have the knowledge of the other case filed before the Garfa P.S qua the written complaint lodged by the petitioner no. 2 and she went their place for asking for her salary which was due for more than 1 and ½ month of Rs. 15.000/- and then the incident took place. The petitioners in course of the interaction with the police did not hand over any complaint of the previous case. That apart the Registrars showing their roster duty during covid on the date of alleged incident as placed before this court was never collected

³ (2012) 1 SCC 520

⁴ CRR 572 OF 2011

⁵ CRR 1062 of 2016

⁶ CRR 1242 of 2018,

⁷ CRR No. 592 of 2013

⁸ 2025 SCC Online SC 2060.

or seized by the investigating authority .Therefore those papers cannot be relied upon being annexed with this revisional application.

5. The learned Advocate representing State also argued that there is no materials to show a previous case was lodged by the petitioners and while asking for filing the documents the petitioners did not hand over those documents or that they were allotted duty at Sagar Dutta Medical College and hospital on the date alleged by the de-facto complainant to attend covid duty. That apart the injury report of the de-facto complainant prima facie discloses injury and hence it should have been tested through the process of trial.

Analysis

6. Heard the submission, the fact of the case as can be gathered from the pleadings and the submissions advanced by the learned advocates and on perusal of the records that it is not in dispute that the de-facto complainant was working as a domestic help cum Aaya at the house of the petitioners for last 6 months since the filing of the complaint by the de-facto complainant. Pursuant to her complaint on 17.5.2021 she went to the house of the petitioner for the purpose of her work when she asked for her salary which falls due of about 1 and ½ month both the petitioner suddenly started assaulting her with fists and blows as a result she fell down and then the petitioner no 1 touched her and abuse her with filthy languages. At the outset this complaint clearly demonstrate that till the said date on 17.5.21 she had no allegation against the petitioners as she went there for discharging her regular duties.

7. On perusal of the case diary and the statement recorded by the Judicial Magistrate 164 of Cr.Pc the embellishment and certain inconsistencies are found glaringly visible. It is further seen that on 14.5.2021 the petitioners lodged a complaint before the Garfa Police Station against the de-facto complainant alleging theft of certain articles from the hand bag of the petitioner no. 2 and over which Garfa P.S Case no. 102 of 2021 dated 14.5.2021 was lodged under Section 381 of IPC and the complaint lodged by the de-facto complainant /Opposite Party no. 2 on 5.6.2120 in respect of an allegation dated 17.5.21 ,that is 20 days after the alleged incident but did not utter a single word about such delay in the complaint. It is the contention of the petitioner that after the opposite party no. 2 lodged the complaint the de-facto complainant /Opposite Party no. 2 was arrested on the same date and was produced before the Magistrate and enlarged on bail on 15.5.2021 so by no stretch of imagination it can be said the de-facto complainant accepted the allegation and the ordeal of spending night behind the bar and despite that went to her place of work for discharging her regular duty ,but the interesting fact remains though both the complaints were lodged before the Garfa Police Station ,no whisper is found from the fore corners of the case Diary regarding such case. The prosecution was served with the copy of the revisional application of this case and despite that raises no such point refuting the case of the petitioner in respect of lodging complaint by the petitioners prior to lodging the instant complaint. That apart the petitioners by way of filing supplementary affidavit has annexed the copy of the roster from the register of the hospital in order to substantiate that they were on covid duties on the

relevant date and the entire story is concocted only to malign and harass the petitioners since they have lodged complaint against her.

Now the question raises as to what extent this court can exercise of the inherent power where charge-sheet has been filed by the investigating authority. In the case of **Salib alias Shalu alias Salim (Supra)** the Hon'ble Apex Court it can be found that in that case also stand of prior filing of a F.I.R was raised and the Hon'ble Court observed in para graph 28 which is as follows;

28. At this stage we would like to observed something important whenever an accuse comes before the court invoking either the inherent powers under section 482 Cr.Pc or extraordinary jurisdiction under Article 226 of the constitution to get an F.I.R or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with ulterior motive for wreaking vengeance ,then in such circumstances the court owes a duty to look into the F.I.R with care and a little more closely .We say so because once the complainant decides to proceed against the accused with an ulterior motive or for wreaking vengeance, etc,then he would ensure that the F.I.R/ Complaint are well drafted with all the necessary ingredients to constitute the alleged offence .Therefore ,it will not be just enough for the court to look into the averments made in the FIR /complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not .In frivolous or vexatious proceeding the court owes a duty to look into many other attending circumstances emerging

from the record of the case over and above the averments and it need be ,with due care and circumspection ,try to read between the lines . The court while exercising the jurisdiction under section 482crpc or Article 226 of the constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation /registration of the case as well as the materials collected in course of investigation .Take for instance the case on hand .Multiple F.I.Rs have been registered over a period of time .It is in the background of such circumstances the registration of multiple FIR s assumes importance thereby attracting the issue”.

In the case of **Mahamood Ali (supra)** also reiterated the above observation and took note of the case **State of A.P vs Golconda Linga Swamy and Another⁹** where it was observed that judicial process no doubt should not be an instrument of oppression, or needless harassment. Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complaint to unleash vendetta to harass any person needlessly.

8. The hon’ble Supreme Court in the case of **Anita Malhotra vs Apparel Export Promotion Council and ors. (supra)** where the case pertains to dishonor of cheque took note of the decision of **Harshendra Kumar D Versus Rebatilata Koley¹⁰** Where it was held that where the case is for quashing of complaint under Section 482 Cr.Pc it is not proper for the High Court to consider the

⁹ (2004) 6 SCC 522

¹⁰ (2011) 3 SCC 351

defence of the accused or embark upon an enquiry in respect of the merits of the accusation. However in an appropriate case, if on the face of the documents -which are beyond suspicion or doubt -placed by the accused, the accusations against him cannot stand, it would be travesty of justice if the accused is relegated to trial and he is asked to prove his defence before the Trial Court. In such a matter for promotion of justice or to prevent injustice or abuse of process ,The High court may look into the materials which have a significant bearing on the matter at prima facie stage. In the said case the stage of the proceeding was issuance of summons.

9. In the case of an unreported decision of the co-ordinate Bench in **C.R.R 572 of 2011** it was observed that ordinarily a court in exercise of its inherent jurisdiction would restrict itself to the uncontroverted allegations in the petition of complaint and initial deposition to ascertain whether there is sufficient ground to proceed against accused person or not .However ,in the event there are collateral proceedings pending by and between the parties and admitted facts emanate therefrom which are beyond controversy ,the same may be taken into consideration to determine whether the initiation of the said proceedings is an abuse of the process of court or not . In **State of Orissa vs Debendra Nath Padhi** reported,¹¹ it was held that if on the basis of materials of unimpeachable and sterling value of such allegations are found to be absurd and inherently improbable it is open to the Court to quash such proceedings by relying on such materials although they may not form part of charge sheet and papers accompanying the same.

¹¹ 2005) 1 SCC 568

In the wake of the aforesaid observations and the ratio decidendi of the case proposes that in such situation where it is necessary to prevent the abuse of the process of law the Court can very well in exercise of its power under Section 482 Cr.Pc can look upon the complaint a little closely, between the lines and also tother documents connected therewith even it may not form the part of charge sheet. In this case the complaint lodged by the petitioner no 2 was lodged on 14.5.2021 against the de-facto complainant and the de-facto complainant /Opposite Party no 2 lodged the complaint on 7.6 .2021 same in respect of an incident alleged to have taken place on 17.5.21 that is just after three days after the complaint of petitioner no 2 but filed after 20 days without any explanation. More so when she was arrested on the strength of the complaint of opposite party no.2 it cannot be probable that after 15.5.2021 on 17,5,2021 she on her usual course went the house of the petitioner and then on demand of her salary such incident occurred ,hence the complaint on the face of it appears to be absurd .

- 10.** In the decision of ***State of Haryana vs Bhajan Lal***¹² at paragraph 102 laid down illustrative categories where quashing of the proceeding is justified. These are;

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 have given the following categories of cases by way of illustration wherein such

¹² 1992 Supp (1)SCC 335

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.

(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.

Conclusion

- 11.** Therefore in the wake of aforesaid facts and circumstances this Court is of the view that it would be a travesty of justice if the petitioners are to face the ordeal of trial when the written complaint is palpably manifest absurdity and improbability. That apart the statement made before the Learned Magistrate by the de-facto complainant is glaringly inconsistent and an undated medical report from the Case Diary is full of correction of time of incident and silent about any name of the assailant and even no injury is mentioned excepting pain over chest.
- 12.** Hence this criminal revisional application stands allowed. The proceeding pending before the Learned Magistrate stands quashed.
- 13.** Urgent certified copy if applied by any of the parties to be supplied subject to observance of all formalities.

(CHAITALI CHATTERJEE DAS,J.)