

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 860 of 2022

Nandalal Singh

Vs.

The State of West Bengal & Anr.

For the Petitioner : Mr. Anirban Dutta,
Ms. Priyanka Mukherjee.

For the Opposite Party : Ms. Aiswarjya Gupta,
No. 2 Ms. Priyanka Saha.

Judgment delivered on : 10.11.2025

Judgment reserved on : 02.12.2025

Shampa Dutt (Paul), J.:

1. The criminal revision has been preferred praying for quashing and/or setting aside of proceedings in case no. C.R. 03/2022 under Section 468/471 of the Indian Penal Code, 1860, presently pending before the learned Additional Chief Judicial Magistrate at Chanchal, Malda and all orders passed therein including order dated 07.01.2022 whereby the learned Additional Chief Judicial Magistrate at Chanchal, Malda was pleased to take cognizance of the matter and issue summons against the petitioner.

2. The petitioner's case is that he is the opposite party no. 2 (a judicial officer) the brother of the petitioner. It is further stated by the petitioner that there is a property dispute between the parties and also a dispute in respect of registered Will dated 07.01.1999 executed in favour of the petitioner by the father of the petitioner and the opposite party no. 2.
3. As the petitioner was doing his master's degree programme, he submitted his dissertation to the University with a certificate duly signed by the opposite party no. 2 being the Research Supervisor stating that the said dissertation is original and not submitted earlier to any university/institute. Apart from his signature, the opposite party no. 2 had again also put his official seal on the said certificate and declaration which was neither required nor asked for by the petitioner. With the course of time, the relationship between the **siblings** turned bitter which led to several acrimonious **disputes over the property**.
4. On 16.08.2021, a suit for declaration and permanent injunction being Title Suit No. 317 of 2021, was also filed by one of the married sisters of the petitioner namely, Gita Singh, against the petitioner along with the opposite party no. 2 and other brothers as proforma defendants.
5. One of the brothers namely, Jai Ram Singh, finding it inconvenient to possess his share of the property mentioned hereinabove with the co-sharers jointly, filed a suit for partition of the property being Title Suit No. 176 of 2021 on 01.09.2021, which is presently pending in the Court of the learned Civil Judge (Senior Division) at Serampore.
6. The point of contention in the present revisional application is that on the basis of a **complaint lodged by the opposite party no. 2 in his**

official order-sheet vide a letter/order dated 06.01.2022, directing the learned ACJM, Chanchal, Malda, to lodge a complaint against the petitioner herein, the complaint case in this case was initiated.

7. On the basis of the said letter/order from a higher Court, (opposite party no. 2, being an Additional District Judge) the ACJM, Chanchal, on the next date itself was pleased to initiate the complaint case being case no. 03/2022.
8. The relevant findings of the Court taking cognizance is as follows:-

“.....Since the complaint is made by a Court, therefore, there is no need to examine the complainant and the witnesses as per section 200(a) of Code of Criminal Procedure.

Further on scrutiny of the complaint and the documents, this Court finds that since the complaint is made by a Court the same cannot be false or vexatious and therefore, there is no need to postpone issue of process and conduct an inquiry under Section 202(1) of Code of Criminal Procedure.

Accordingly, issue summons upon the accused.

Necessary requisite file.

Register the case in the register.

Fix 07.02.2022 for SR and appearance.....

**Sd/-
A.C.J.M. Chanchal, Malda”**

9. **Section 200 of the Cr.P.C. lays down:-**

“200. Examination of complainant.- A Magistrate taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate :

Provided that when the complaint is made in writing, the Magistrate need not examine the complainant and the witnesses –

*(a) **if a public servant acting or purporting to act in the discharge of his official duties or a Court has made the complaint; or***

(b) if the Magistrate makes over the case for inquiry or trial to another Magistrate under section 192 :

Provided further that if the Magistrate makes over the case to another Magistrate under Section 192 after examining the complainant and the witnesses, the latter Magistrate need not re-examine them.”

10. In the present case the complainant herein has used his official position as an additional district Judge and vide a Court complaint/order has directed a complaint to be initiated against his brother with whom he has several property disputes.

11. The Additional District Judge as complainant /opposite party no. 2 did not act in discharge of his official duties, but **misused his position to register a personal complaint.**

12. In *Pa. U. Chemmal vs Lokeshwaran Ravi & Ors.*, (citation not available) the Supreme Court **on 21st November, 2025 refused to interfere in the vigilance inquiry initiated against a District Judge who seemed to have “*stooped so low to take vengeance*” against his PSO by misusing his power of Judicial Authority.**

13. In *Krishna Prasad Verma (D) Thr. Lrs. vs State of Bihar & Ors.*, in *Civil Appeal No. 8950 of 2011*, decided on September 26, 2019, the Supreme Court held:-

*“8. No doubt, if any judicial officer conducts proceedings in a manner which would reflect on his reputation or integrity or there is prima facie material to show reckless **misconduct on his part while discharging his duties**, the High Court would be entitled to initiate disciplinary cases but such material should be evident from the orders and should also be placed on record during the course of disciplinary proceedings.*

*16. We would, however, like to make it clear that we are in no manner indicating that if a judicial officer passes a wrong order, then no action is to be taken. In case a judicial officer passes orders which are against settled legal norms but there is no allegation of any extraneous influences leading to the passing of such orders then the appropriate action which the High Court should take is to record such material on the administrative side and place it on the service record of the judicial officer concerned. These matters can be taken into consideration while considering career progression of the concerned judicial officer. Once note of the wrong order is taken and they form part of the service record these can be taken into consideration to deny selection grade, promotion etc., and in case there is a continuous flow of wrong or illegal orders then the proper action would be to compulsorily retire the judicial officer, in accordance with the Rules. **We again reiterate that unless there are clear-cut allegations of misconduct, extraneous influences, gratification of any kind etc., disciplinary proceedings should not be initiated merely on the basis that a wrong order has been passed by the judicial officer or merely on the ground that the judicial order is incorrect.”***

- 14.** An Additional District Judge cannot directly direct a Magistrate **vide a judicial order to register a case, in a personal family dispute**. The principle of **judicial impartiality** and the avoidance of conflict of interest prevents a judge from using their position to initiate a case for a personal matter, to address a family dispute, a judge must file a separate, private complaint, and any subsequent proceedings or investigation would be handled through the standard legal process, **not via a direct order from the judge to a Magistrate**. Judges are bound

by the principle of impartiality and must avoid any action that could be perceived as a **personal conflict of interest. Directing a Magistrate to register a case for a personal dispute would violate this core principle.**

- 15. A judge who is involved in a personal family dispute should file a private complaint in the appropriate court.**

The case would then proceed like any other private complaint, with a Magistrate reviewing the complaint and deciding whether to take cognizance, possibly directing an investigation under Section 156(3) of the Code of Criminal Procedure, or as a normal complaint case under Section 200 Cr.P.C.

The judge would not be involved in the proceedings beyond filing the initial complaint.

- 16. In the present case, the complainant as a judicial officer** has used his official position, directing the learned ACJM vide a judicial order to register a case against his own brother, with whom he has personal property dispute by an order in his official capacity and the learned ACJM, treated the said order as a Court complaint under Section 200(a) of the Cr.P.C., **which in this case is a clear abuse of power and thus against the principle of natural justice.**

- 17. CRR 860 of 2022 is allowed.**

- 18. The proceedings in case no. C.R. 03/2022 under Section 468/471 of the Indian Penal Code, 1860, presently pending before the learned**

Additional Chief Judicial Magistrate at Chanchal, Malda and all orders passed therein including order dated 07.01.2022, **is hereby quashed against the petitioner.**

- 19. As this case involves, prima facie misconduct on the part of a senior judicial officer, let a copy of this judgment be placed before the Hon'ble the Chief Justice (Acting) through the learned Registrar General.**
- 20.** All connected applications, if any, stands disposed of.
- 21.** Interim order, if any, stands vacated.
- 22.** Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)