

IN THE HIGH COURT AT CALCUTTA
(Criminal Revisional Jurisdiction)
Appellate Side

Present:

Justice Bibhas Ranjan De

C.R.R. 979 of 2024

Bimal Khetawat & Ors.

Vs.

The State of West Bengal & Anr.

For the Petitioners	:Mr. Ayan Bhattacharjee, Sr. Adv. Ms. Sreeparna Das, Adv. Ms. Sananda Ganguli, Adv. Mr. Subhodeep Roy, Adv. Ms. Ritu Das, Adv.
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For the State	:Mr. Debasish Roy, Ld. PP. Mr. Santanu Talukdar, Adv.
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For the Opposite party no. 2	:Kaushik Chatterjee, Adv. Mr. Tirthankar Dey, Adv.
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Last Heard on	:03.07.2025
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Judgment on	:21.08.2025
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Bibhas Ranjan De, J.

1. The present revision application has been preferred under Section 482 of Code of Criminal Procedure (hereinafter referred to as CrPC) assailing the proceeding of G.R.(s) case No. 64 of 2024 arising out of Shakespeare Sarani Police Station Case No. 10 dated 15.01.2024 under Sections 341/504/506/34 of the Indian Penal Code (hereinafter referred to as IPC) presently pending before the Court of Ld. Chief Metropolitan Magistrate, Calcutta.
2. The genesis of the impugned prosecution is a letter of complaint lodged at the behest of the opposite party no. 2 with the officer-in-charge, Shakespeare Sarani Police Station alleging *inter alia* that in terms of the notice dated November 09, 2023 issued by the building society namely 'Saraswati Niket Owners Society', the opposite party no. 2 along with others attended the Annual General Meeting (hereinafter referred to as AGM) on December 3rd, 2023 in the community hall of the said building society and questioned the members and officer bearers of the Managing Committee to substantiate the details with relation to the profit and loss

account. Upon hearing the same, the petitioners allegedly turned extremely furious and hurled objectionable comments and filthy abuses and even threatened to assault the opposite party no. 2. It was further alleged that opposite party no. 2 was even threatened with disconnection of essential services like lift, supply of electricity and other common services. The petitioners allegedly further stated that they shall soon start disturbing the peaceful usage of the said flats and also misbehave and restrict and restrain their callers, visitors, guests from entering the said building. In furtherance with their common intention, thereafter the opposite party no. 2 was forcefully restrained and prevented by the petitioners from making any comment in the attendance sheet of the AGM. In such view, a letter of complaint was filed with a request to the police to take immediate action against the accused persons and upon receipt of such complaint a purported preliminary inquiry was conducted vide report dated 15.01.2024 and accordingly a specific case was indexed as Shakespeare Sarani Police Station Case No. 10 dated 15.01.2024 under Sections 341/504/506/34 of IPC against the petitioners and in

course of investigation notice was served under Section 91 of the CrPC upon the complainant and relevant documents were seized as well as statement of witnesses under Section 161 of the CrPC were recorded in connection with the case. Upon completion of investigation, report in final form was submitted before the Ld. Chief Metropolitan Magistrate, Calcutta against all the FIR named accused persons vide Shakespeare Sarani Police Station charge sheet no. 43 of 2024. However, all the accused persons in the interregnum period surrendered before the Ld. Magistrate and were enlarged on bail. Being aggrieved with the impugned proceeding, the petitioners have preferred the instant revision with a prayer for exercise of inherent jurisdiction.

Argument advanced:-

3. Mr. Ayan Bhattacharjee, Ld. Senior Counsel, appearing on behalf of the petitioners has vociferously contended that in the contents of the FIR there is no allegation regarding obstruction of the person from proceeding in any direction which is sine qua non for an offence under Section 341 of the IPC. Mr. Bhattacharya has further submitted that merely restraining a person to make his comment is not an offence

within the meaning of Section 341 of the IPC. Therefore, the charge under Section 341 of the IPC is not sustainable. In this regard, Ld. Senior Counsel has suggested that the absence of essential ingredients under Section 341 of the IPC bears immense significance to the case at hand as the FIR without Section 341 of the IPC shall be barred in terms of provision of Section 151 (2) of the CrPC. Before parting with Mr. Bhattacharya has tried to make this Court understand that neither in the FIR nor in the charge sheet any specific role has been attributed to either of the petitioners as the allegations are extremely sketchy and general. Moreover, no ingredients under Section 504 as well as 506 of the IPC are made out after meticulous examination of the investigation report.

4. In support of his contention, Mr. Bhattacharya has referred to a series of cases which are as follows:-

- **Madhushree Datta vs. State of Karnataka and another, (2025) 3 Supreme Court Cases 612**
- **Sharif Ahmed and another vs. State of Uttar Pradesh and another, 2024 INSC 363**

- **Haji Iqbal @ Bala Through S.P.O.A. vs. State of U.P. & Ors, 2023 (10) SCALE**
 - **B.V. Ram Kumar vs. State of Telangana and another, (2025) 3 Supreme Court Cases 475**
 - **Lalita Kumari vs. Government of Uttar Pradesh and another, (2014) 2 Supreme Court Cases 1**
 - **N.S. Madhanagopal and another vs. K. Lalitha, (2022) 17 Supreme Court Cases 818**
 - **Rupan Deol Bajaj (Mrs) and another vs Kanwar Pal Singh Gill and another, (1995) 6 Supreme Court Cases 194**
 - **Keshav Lal Thakur vs. State of Bihar, (1996) 11 Supreme Court Cases 557**
 - **B.N. John vs. State of U.P. and another, AIR 2025 SUPREME COURT 759**
 - **State of Haryana and others vs. Ch. Bhajan Lal and others, AIR 1992 Supreme Court 604**
5. Per contra, Mr. Kaushik Chatterjee, Ld. Counsel appearing on behalf of the opposite party no. 2 has strenuously argued that the petitioners have restrained the representatives of the opposite party no. 2 from accessing the comment register of

the meeting which has further been corroborated by the onlookers and whether such restraint was a physical restraint or not can only be divulged into during trial.

6. Mr. Chatterjee by referring to the factual matrix of the instant case has alleged that the petitioners have conjointly threatened the representatives of the opposite party no. 2 with dire consequences of assault along with injury to their reputation by hurling abuses and referring to them as habitual offenders with the intent to compel the opposite party no. 2 to pay the enhanced maintenance which the opposite party no. 2 is not legally bound to pay. Therefore, Mr. Chatterjee has tried to make this court understand that the FIR is not an encyclopaedia and it would suffice if prima facie commission of offence is made out as is the case here. Thereby, Ld. Counsel has concluded that no exercise of inherent power by this court is required at this stage of the proceeding.

7. In order to further substantiate his argument, Mr. Chatterjee has taken assistance of the following cases:-

- ***Fiona Shrikhande vs. State of Maharashtra and another, (2013) 14 Supreme Court Cases 44***

- ***Romesh Chandra Arora vs. State, 1959 SCC OnLine SC 43***
- ***Rajesh Bajaj vs. State NCT of Delhi and others, (1993) 3 Supreme Court Cases 259***
- ***Padal Venkata Rama Reddy alias Ramu vs. Kouvuri Satyanarayana Reddy, (2011) 12 Supreme Court Cases 437***
- ***Puspen Sarkar vs. Central Bureau of Investigation, 2010 SCC OnLine Cal 1712***
- ***S.M. Datta vs. State of Gujrat and another, (2001) 7 Supreme Court Cases 659***

8. Mr. Debasish Roy, Ld. Counsel appearing on behalf of the State by relying on the materials collected during investigation has submitted that a prima facie case has been well established against the petitioners/accused and therefore no sort of interference by this Court is required at this stage.

Analysis:-

9. At the very outset, I would like to clarify that I have gone through all the cases relied on behalf of the parties to this revision application. However, after meticulous examination

of the same, it has come to my notice that the cases relied on behalf of the petitioners have a very different factual build up in comparison to the present case. Therefore, it cannot be said that the observations delineated therein are squarely applicable to the case at hand.

10. Having said that, based on rival contentions, the issues that have cropped up for adjudication, in my humble opinion can be summarized as follows:-

Issue A:- If a member of a co-operative society is not allowed to put his endorsement/remark on the attendance sheet of the AGM of the Co-operative society, shall that attract any of the ingredients of Section 341 of the IPC?

Issue B:- In case Section 341 is not made out then will the entire investigation come under the express bar engrafted in Section 155 (2) of the CrPC.

Issue C:- Shall the given facts and circumstances in connection with the impugned proceeding attribute to Section 504 of the IPC.

11. As both Issues A & B are intertwined, they are taken up together for consideration.

12. Section 341 of the IPC speaks about punishment for wrongful restraint and in order to attract the application of Section 341 the following has to be proved,

- i. That there was obstruction by the accused;
- ii. Such obstruction prevented a person from proceeding in a direction to which he had a right to proceed; &
- iii. The accused caused such obstruction voluntarily.

Therefore the obstrucuter must intend to know or could have reason to believe that the means adopted would cause obstruction to the complainant.

13. In the context of a co-operative society, members have certain rights, including the right to participate in meetings, access records, and express their views or remarks on resolutions. Therefore, preventing a member from recording remarks could amount to wrongful restraint if it physically blocks access to the resolution book or prevents the member from performing a physical act. That apart, a housing society member must have a legitimate right to sign the comment register. This could be based on society by laws, Co-Operative Housing Society Regulations and statutory rights under relevant Housing Laws. All these matters being mixed

question of law and facts can only be ascertained through the process of trial and not at this stage by invoking provision of Section 482 of CrPC as whether the restraint was wrongful and intentional or administrative/procedural cannot be answered authoritatively without getting into the material intricacies.

- 14.** Assuming for the sake of argument if none of the ingredients of Section 341 of the IPC is found in the written complaint, still it cannot be said that the entire investigation is barred by Section 155(2) of the CrPC as the case at hand was initiated under Sections 341/504/506/ 34 of the IPC which relate to both cognizable and non cognizable offences. It is trite law that even if ultimately the result of such investigation discloses commission of only non-cognizable offence then in that case also no permission under Section 155 (2) of CrPC is required to be obtained from Court by the Police as in those cases, in terms of Section 2 (d) of the CrPC, the police report would be deemed to be a 'complaint' and the Court is to take cognizance thereupon under Section 190(a) of the CrPC thereby treating such report as complaint and not as a charge sheet under Section 190(1) (b) of the CrPC.

15. Now coming to Issue C, a bare perusal of the expressed provision of Section 504 IPC would further clarify that the *animus nocendi* of the said provision is that the accused should “intentionally insult” the other person with the intent or knowledge that the provocation caused by such insult is likely to result in the commission of breach of public peace or **any other offence** by the person who has been so insulted. Therefore the intention or knowledge on the part of the accused that his action of making intentional insult has the potential to provoke the person so insulted is *sine qua non* for the commission of the offence under Section 504 IPC. In the case at hand, the charge sheet along with the materials collected during investigation discloses that there was a verbal altercation between the parties wherein the petitioner hurled objectionable comments towards the opposite party no. 2 and the natural corollary of the discussion made hereinabove is that if the accused did not intend to give provocation then the offence is not made out. But such disputed question of fact with regard to the alleged occurrence is a subject matter of trial and by no means it can be said that applicability of Section 504 IPC can out

rightly be rejected in the given set of circumstances by exercising inherent power.

16. Moreover, the Hon'ble Apex Court in various landmark decisions has made a very clear suggestion that if factual foundation for the offence has been laid in the complaint, the Court should not hasten to quash criminal proceedings merely on the premise that one or two ingredients have not been stated with details. This Court is also not oblivious to the settled proposition of law that the High Courts while exercising power under Section 482 of the CrPC do not function **either as a Court of appeal or revision, also having no power to conduct a mini trial.**

17. The inherent power is to be exercised *ex debito justitiae*, to do real and substantial justice. Wherever any attempt is made to abuse the authority so as to produce injustice, the Court is duly empowered to prevent such abuse.

18. On going through the entire complaint, materials collected and stated in the form of charge sheet including statement of witnesses and on conjoint reading of all the above materials, it cannot be presumed with authority that

there is no legal and acceptable evidence in support of the prosecution.

- 19.** For the above reasons, I am unable to come to the conclusion that there is any requirement to exercise inherent power in the given set of circumstances.
- 20.** Accordingly, the revision application no. CRR 979 of 2024 being devoid of merits, stands dismissed.
- 21.** Connected applications, if any, also stand disposed of accordingly.
- 22.** Interim order, if there be any, stands vacated.
- 23.** All parties to this revisional application shall act on the server copy of this order duly downloaded from the official website of this Court.
- 24.** Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

[BIBHAS RANJAN DE, J.]