

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side

Present:
The Hon'ble Justice Jay Sengupta

CRR 1533 of 2025

Subrata Nag
Vs.
Vijay Pal & Ors.

For the Petitioner : Mr. Biswarup Chatterjee
For the State : Mr. Rana Mukherjee
Mr. Mainak Gupta
Heard on : 15.07.2025
Judgment on : 15.07.2025

Jay Sengupta, J.:

This is an application challenging an order dated 07.02.2025 passed by the learned Chief Judicial Magistrate in Miscellaneous petition No. 423 of 2024 under Section 173(4) of the BNSS read with Section 175(3) of the BNSS thereby rejecting an application of the petitioner for registration of an FIR.

Affidavit of service filed on behalf of the petitioner is taken on record.

Despite service, no one appears on behalf of the private respondents.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner had supplied goods to the prime accused to the tune of more than Rs. 50 lakhs. But the accused opposite party did not pay. After much persuasion of the Embassy at London, the private opposite party paid Rs. 10 lakhs in two equal tranches. However, he did not pay the rest of the money although admitting such dues in an email sent earlier. As the police did not register an FIR, the petitioner was constrained to approach the learned Magistrate. The learned Magistrate called for a report from the police. The enquiry authority did not at all come to a finding that the matter was civil in nature. However, the learned Magistrate disposed of the matter with a cryptic observation that on perusal of the enquiry report, it appeared that the allegation was civil in nature. Often criminal offences arise out of commercially transactions. Here, prima facie case is clearly made out and the petitioner's contention was not properly appreciated by the learned Magistrate.

Learned counsel appearing on behalf of the State submits as follows. From the report it appears that there were business transactions between the private parties. There were two part payments made. Apparently there was further transaction in cash even after the incident. In view of the same, the Magistrate cannot be faulted for coming to conclusion that the matter was civil in nature.

I have heard the learned counsels for the parties and perused the application.

The report filed by the enquiry authority referred to certain business transactions between the private parties. It also appears that part payments were made or rather had to be made by the private opposite party at the intervention of the Embassy at London.

Be that as it may, the facts as presented in the application and the report, have not been dealt with by the learned Magistrate fully and properly and a bald inference was arrived at that the enquiry report showed that the matter was civil in nature.

In view of the same, the impugned order dated 07.02.2025 is set aside and the matter is remanded back to the learned Magistrate to consider the matter afresh in the light of the application, the report and other materials available on record, if any.

With these observations and directions, the revisional application is disposed of.

Parties shall act on a server copy downloaded from the official website of this Court.

(Jay Sengupta, J.)