

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

**BEFORE:
THE HON'BLE JUSTICE UDAY KUMAR**

CRR 1493 of 2024

**Bhabatosh Ghosh & Ors.
Vs.
The State of West Bengal & Anr.**

And

CRR 1494 of 2024

(CRAN 1 of 2024)

**Bhabotosh Ghosh & Anr.
Vs.
State of West Bengal & Anr.**

For the Petitioner
in CRR 1493 of 2024 : Mr. Kaustav Banerjee

For the Petitioner
in CRR 1494 of 2024 : Mr. Kaustav Banerjee
Ms. Riya Kundu

For the De facto Complainant : Mr. Dipankar Saha
Mr. S.K. Kabir

For the State
in CRR 1493 of 2024 : Ms. Shaila Afrin
Mr. Subhojit Chowdhury

For the State
in CRR 1494 of 2024 : Mr. Iqbal Kabir
Mr. Subhasis Dutta

Hearing Concluded

in CRR 1493 of 2024 on : 20th June, 2025

Hearing Concluded

in CRR 1494 of 2024 on : 11th July, 2025

Judgment on : 08th August, 2025

Uday Kumar, J.:-

1. This common judgment shall dispose of two revisional applications, CRR No. 1493 of 2024 and CRR No. 1494 of 2024, filed by the same petitioners, Bhabatosh Ghosh, Avijit Ghosh, and Biswajit Ghosh. Both applications invoke the inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973, along with its revisional powers, to seek the quashing of two separate criminal proceedings.
2. The first criminal revision application, CRR No. 1493 of 2024, pertains to G.R. Case No. 1988 of 2023, which arose from Gaighata Police Station Case No. 591 of 2023. The original First Information Report (FIR) was registered under Sections 323, 325, 506, 120B, and 34 of the Indian Penal Code (IPC). A subsequent chargesheet (No. 577 of 2023) was filed under Sections 447, 323, 506, and 34 of the IPC. This case was initiated on the basis of a court complaint by opposite party no. 2, Sanjib Sarkar.
3. The second criminal revision application, CRR No. 1494 of 2024, is directed against G.R. Case No. 1784 of 2023, which arose from Gaighata Police Station Case No. 549 of 2023. The original FIR was registered under Sections 448/323/427/506/34 IPC, with a later chargesheet (No. 662 of 2023) filed under Sections 341/323/506/34 of the Indian Penal Code. This case was initiated by a written complaint from opposite party no. 2, Biswajit Sarkar.
4. The central contention, common to both applications, is that these criminal proceedings constitute a malicious prosecution and are a "counterblast" to a long-standing civil land dispute. According to the

petitioners, these proceedings amount to a grave abuse of the legal process, and they seek the quashing of the criminal cases.

5. The dispute with complainant Sanjib Sarkar began to formalize with the petitioners' legal actions. When Sanjib Sarkar started facing disturbances, he first lodged a diary with the Gaighata Police on July 7, 2022. This was followed by a more serious alleged incident on July 20, 2022, when the petitioners allegedly assaulted him after he obstructed their attempt to unlawfully capture his land. Because the police initially did not act, Sanjib Sarkar was compelled to file a court complaint under Section 156(3) of the Cr.P.C. on August 31, 2022. This procedural step ultimately led to the registration of a formal police case, Gaighata P.S. Case No. 591 of 2023, and the subsequent filing of a chargesheet after an investigation.
6. While in another case, the prosecution's claim is that the same petitioners acted with the intent to grab property from another complainant, Biswajit Sarkar. The central criminal incident occurred on May 28, 2023, when the petitioners are alleged to have forcefully entered Biswajit Sarkar's house. Once inside, they escalated the situation by damaging household articles. When Biswajit Sarkar attempted to intervene, he was physically assaulted with "fist and blow" and threatened with death, along with his family. Biswajit Sarkar immediately filed a written complaint with the police on the same day. The ensuing police investigation concluded that there was sufficient evidence to support the allegations, leading to the filing of a chargesheet that includes offenses such as wrongful restraint (Section 341 IPC),

voluntarily causing hurt (Section 323 IPC), criminal intimidation (Section 506 IPC), and Section 34 IPC for their collective action.

7. The prosecution's case history is rooted in a long-standing and escalating civil land dispute in Rampur Mouza. This core conflict forms the backdrop for both criminal proceedings against the petitioners, Bhabatosh Ghosh, Avijit Ghosh, and Biswajit Ghosh.
8. Mr. Kaustav Banerjee, the learned advocate for the petitioners, submitted that the criminal complaints are not genuine reports of offenses but are retaliatory actions, or a "counterblast," initiated with the ulterior motive of harassing the petitioners and gaining an unfair advantage in a civil dispute over a parcel of land in Rampur Mouza. He emphasizes that this misuse of the criminal justice system to achieve a civil end is a classic case of the abuse of the process of law, which the High Court has a duty to prevent.
9. He highlighted specific timelines to support this claim, noting that the criminal complaints were lodged shortly after the petitioners had initiated their own legal proceedings, such as a writ petition and an application under Section 144 of the Cr.P.C. (M.P. Case No. 678 of 2022) to prevent the complainant, Sanjib Sarkar, from interfering with their property. The criminal complaint, alleging an assault on July 20, 2022, was filed after this legal action, demonstrating a clear retaliatory motive.
10. He further pointed to alleged discrepancies in evidence, such as a contradictory injury report and the exoneration of a co-accused, to argue that the prosecution's case is a fabrication. This, he argues, denies the veracity of the prosecution's allegations.

11. Similarly, he argued that the second criminal case is a direct retaliatory measure to the petitioners' prior writ petition (WPA No. 18788 of 2022) concerning the land dispute. The High Court disposed of this petition on May 15, 2023, and the criminal complaint was lodged just 13 days later on May 28, 2023. He submits that this immediate filing following the conclusion of the petitioners' legal action is incontrovertible proof of a personal grudge and a counterblast.
12. He also pointed out that the chargesheet was filed under Sections 447/323/506/34 IPC, are different from those in the original FIR (Sections 323/325/506/120B/34 IPC), questioned the authenticity of the witness statements, as appear to be "copy-paste" jobs from relatives, lacking independent weight, exoneration of one of the co-accused, by the police due to a lack of evidence, who was initially named in the complaint, casts serious doubt on the credibility of the entire prosecution story and the chargesheet which, fails to establish the necessary ingredients for the key cognizable offense of criminal trespass (Section 447 IPC).
13. Finally, Mr. Banerjee concluded by invoking the *a-priori* legal principles laid down in the landmark case of *State of Haryana v. Bhajan Lal (1992)*. He asserted that these cases are "maliciously instituted with an ulterior motive for wreaking vengeance" and are factually baseless, should therefore be quashed. To allow the proceedings to continue would be to grant a judicial endorsement of this abuse of law. Therefore, he prays that the Court, in the interest of justice, quash the entire criminal

proceedings in both G.R. Case No. 1988 of 2023 and G.R. Case No. 1784 of 2023.

- 14.** Per contra, Ms. Shaila Afrin, Learned Advocate for the State in CRR 1493 of 2024, and Mr. Iqbal Kabir Learned Advocate for the state in CRR 1494 of 2024 and Mr. Dipankar Saha, the learned advocate for the opposite party 2, vehemently opposed the quashing of the criminal proceedings. They argued that these are not malicious prosecutions but legitimate criminal cases that have been properly investigated and should proceed to trial. In both cases, the police conducted an "exhaustive investigation" and recorded statements of available witnesses. They found "prima facie sufficient material on record" and concluded that the allegations were established. The filing of a chargesheet is a testament to this conclusion. They argued that the petitioners are attempting to misuse the High Court's inherent powers to evade prosecution for serious offenses.
- 15.** They submitted that the existence of a civil land dispute serves merely as the motive for the criminal acts, not a reason to dismiss the criminal charges themselves. They contended that the allegations in both cases—physical assault, forceful entry into a home, property damage, and death threats—are distinct and independent criminal wrongs that are not extensions of the civil matter.
- 16.** They argued that the police acted in strict accordance with the law by registering the cases and conducting thorough investigations before filing chargesheets. The learned advocates for the respondents argued that the petitioners' claims regarding contradictory evidence and other

deficiencies are disputed questions of fact that can only be decided during a full trial.

17. They, too, relied on the principles of *State of Haryana v. Bhajan Lal*, but argued that the facts of these cases fail to meet the high legal threshold required for quashing, as the chargesheets disclose clear cognizable offenses.
18. Mr. Saha countered the petitioners' central claim that the criminal cases are a "counterblast" to a civil dispute. He argued that the existence of a land dispute is merely the motive for the criminal acts, not a reason to dismiss the crimes themselves. The allegations in both cases—physical assault, forceful entry into a home, property damage, and death threats—are distinct and independent criminal wrongs. He asserts that a civil dispute does not grant a person immunity from criminal prosecution for acts committed in the course of that dispute.
19. Mr. Saha submitted that the police investigation was thorough and fair. The fact that one co-accused was exonerated in the second case, he argued, actually strengthens the prosecution's case, as it demonstrates that the police did not mechanically file the chargesheet but exercised discretion based on the evidence they found. The claims about a lack of specific documents, such as an injury report or a seizure list, are matters of defence and can be challenged before the trial court.
20. Mr. Saha also acknowledged the existence of an underlying civil land dispute but strongly argued that this dispute served merely as the motive for the petitioners' criminal acts, not a reason to dismiss the criminal charges.

- 21.** Finally, he concluded by invoking the principles of *State of Haryana v. Bhajan Lal* and argued that the power to quash a criminal proceeding should be used sparingly and only when the allegations, even when taken at face value, do not disclose a cognizable offense. In both cases, the chargesheets disclose clear cognizable offenses and are based on investigations that found sufficient grounds for a trial.
- 22.** I have meticulously examined the entire record, including the FIRs, the chargesheets, and the various annexures pertaining to the acknowledged land dispute and the prior legal proceedings. The central question for determination is whether the criminal proceedings against the petitioners constitute a genuine and legitimate prosecution for criminal offenses or a malicious abuse of the legal process.
- 23.** It is a well-established principle that the power vested in a High Court under Section 482 Cr.P.C. is an extraordinary one, to be exercised with utmost caution and only in deserving cases. This power is primarily invoked to prevent abuse of the process of court's process (law) or to otherwise secure the ends of justice. The Hon'ble Supreme Court, in its seminal decision in *State of Haryana v. Bhajan Lal* (1992 Supp (1) SCC 335), has laid down illustrative, though not exhaustive, categories of cases where quashing may be justified, most notably:
- "(vii) Where a criminal proceeding is manifestly attended with malafide 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."*
- 24.** Applying this legal framework to the facts of the present cases, this Court finds that the petitioners' claims do not meet the high legal

threshold required for quashing. While the petitioners' argument regarding the timing of the complaints raises a suspicion of a retaliatory motive, this alone is not sufficient to quash a criminal proceeding. The law is clear that the existence of a civil dispute does not grant a person immunity from criminal prosecution for acts committed in the course of that dispute. The alleged criminal acts of forceful entry, assault, and criminal intimidation are distinct from the civil matter of land ownership and must be adjudicated by a criminal court.

25. Furthermore, the petitioners' contentions regarding a contradictory injury report, the exoneration of a co-accused, or other evidentiary deficiencies are essentially matters of defense. This Court, in a proceeding under Section 482 of the Cr.P.C., cannot and should not usurp the function of a trial court to weigh evidence and determine its credibility. The police, after conducting an investigation, have found sufficient grounds to file a chargesheet, which discloses cognizable offenses. Whether the evidence presented at trial will be sufficient to secure a conviction is a matter for the trial court to decide, where evidence can be formally presented and subjected to cross-examination. To quash the proceedings at this stage would be to pre-emptively conclude the trial, thereby defeating the very purpose of the criminal justice system.

26. Thus, the facts, when considered in the light of the relevant legal principles, do not establish that these criminal proceedings are a malicious abuse of the legal process. The allegations are not so

inherently absurd or improbable that no reasonable court could possibly convict. The petitioners' claims are essentially a set of defences that must be tested on the anvil of a full trial.

- 27.** In view of the above discussion, where it has been determined that the criminal proceedings are not a malicious abuse of the legal process and that a *prima facie* case exists in both instances, this Court is of the considered opinion that both applications lack merit.
- 28.** Accordingly, both revisional applications, CRR 1493 of 2024 and CRR 1494 of 2024, are dismissed.
- 29.** The interim orders of stay, if any, passed in in both G.R. Case No. 1988 of 2023 and G.R. Case No. 1784 of 2023 are hereby vacated.
- 30.** CRAN 4 of 2025 in CRR 1494 of 2024 stands disposed of, accordingly.
- 31.** The Learned Additional Chief Judicial Magistrate at Bongaon is directed to proceed with the trial in both cases expeditiously and in accordance with the law, without being influenced by any observations made in this judgment.
- 32.** The petitioners are at liberty to raise all their defenses, including the alleged contradictions in evidence and the malicious nature of the prosecution, before the trial court.
- 33.** The Trial Court Record (TCR), if any, shall be sent down to the Trial Court, at once.
- 34.** Case Diary, if any, be returned forthwith.

- 35.** There shall be no order as to costs.
- 36.** Let a copy of this judgment and order be sent to the Learned Additional Chief Judicial Magistrate at Bongaon, North 24 Parganas, and the Officer-in-Charge, Gaighata Police Station, for their information and necessary action.
- 37.** An urgent certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Uday Kumar, J.)