

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

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

CRR 1393 OF 2021

**Md. Sajid Alam
Vs.
State of West Bengal & Anr.**

For the Petitioner : Mr. Ayan Bhattacharjee,
Mr. Apurba Kumar Ghosh

For the Opposite Party No. 2 : Mr. Kallol Kumar Basu,
Md. Jannat Ul Firdose

Hearing concluded on : 11.07.2025

Judgment on : 22.08.2025

UDAY KUMAR, J.: –

1. The present revisional application has been preferred by the petitioner, Md. Sajid Alam, seeking to quash the proceedings in C.R. Case No. 100336 of 2018, pending before the Learned Additional Chief Judicial Magistrate at Durgapur.
2. The proceedings arise from a complaint by the opposite party, Kiran Chowdhury, who alleges he was an equal partner in 'Bharat Trading Company' with the petitioner. Mr. Chowdhury claims he was cheated out of his 50% share of the profits, amounting to a substantial sum. The complaint further alleges that a cheque issued by the petitioner was dishonoured, and that the petitioner, accompanied by anti-social elements, resorted to physical assault and intimidation to prevent the

complainant from pursuing legal action. The petitioner, however, contests this narrative, asserting that no partnership ever existed and that the complainant was merely an employee of his sole proprietorship.

- 3.** Mr. Ayan Bhattacharjee, the learned counsel for the petitioner has advanced a series of arguments. Primarily, it is contended that the dispute is civil in character, stemming from a partnership agreement, and should not be criminalized. It has been argued that the simultaneous charges under Sections 406 and 420 of the IPC are legally untenable, a position supported by a recent Hon'ble Supreme Court judgment. The petitioner's counsel further argued that the dishonoured cheque, particularly one with alterations, does not constitute a criminal offense, and that the court's action of taking cognizance twice amounts to an abuse of the legal process.
- 4.** In opposition, Mr. Kallol Kumar Basu, the learned counsel for the opposite party no.2, while acknowledging the financial nature of the dispute, vehemently maintained that the alleged acts of cheating, assault, and intimidation are distinctly criminal. It was argued that the core of the matter—whether a partnership existed—is a disputed question of fact that can only be resolved through a full trial. Learned Counsel clarified that the initial order was merely for the registration of the case, and cognizance was taken only once. It was further submitted that the dishonoured cheque, despite any purported invalidity, is an integral piece of evidence that must be examined during the trial.

5. The central question before the court was whether a criminal proceeding can be quashed at the preliminary stage when there are disputed questions of fact involved.
6. Upon careful consideration of the rival contentions and the records before me, I find that the petitioner's arguments are not sufficient to warrant the quashing of the criminal proceedings.
7. The attempt to frame this as a purely civil dispute is, in my view, unconvincing. While the dispute may have its roots in a commercial relationship, the allegations of cheating, assault, and intimidation are specific criminal acts that cannot be overlooked. A person's recourse to criminal proceedings is not precluded simply because a civil remedy might also be available. The law is clear: a civil wrong can coexist with a criminal offense and the facts must be examined to determine if the alleged conduct falls within the ambit of the criminal statute.
8. It is settled principle of law that court cannot conduct a "mini-trial" to resolve the factual dispute over whether the complainant was a partner or an employee. It has been specifically decided in *Bhajan Lal vs. State of Haryana*, 1992 Supp (1) SCC 335 that the inherent power to quash a proceeding under Section 482 of the Cr.P.C. is limited and should not be used to interfere when a prima facie case exists. It found that the record clearly shows a prima facie case against the petitioner. Admittedly, the present case squarely falls within this category, as the factual disputes are the very essence of the matter and can only be resolved through a

full trial. This reasoning served as the cornerstone for the court's decision to dismiss the revisional application.

9. Furthermore, the petitioner's claim that simultaneous charges under Sections 406 and 420 of the IPC are a "misnomer" was considered a matter for the Trial Court to determine after evidence is led. The Court affirmed that the legal and evidentiary nuances of the charges are best left to the trial. In respect of the dishonoured check, not constituting a criminal offense due to alterations, was similarly dismissed as an issue to be settled during the trial, as it involves a legal presumption of liability that can be rebutted with evidence.
10. Finally, the central conflict—whether the complainant was a partner or an employee—is the very essence of the case. It is a disputed question of fact that cannot be summarily decided by this Court. To do so would require me to weigh the evidence and conduct a mini-trial, a power that is not vested in this Court under Section 482 of the Cr.P.C. The Hon'ble Supreme Court has repeatedly cautioned against this practice, most notably in the landmark case of *Bhajan Lal vs. State of Haryana (supra)*. Where a *prima facie* case exists, as it does here, the prosecution must be allowed to proceed.
11. The petitioner's procedural arguments also fail to hold ground, as the record clearly demonstrates that cognizance was taken only once, after the case was transferred and the complainant's statement was recorded. The initial order was merely an administrative step. The legal and evidentiary nuances of the charges are also matters best left for the Trial

Court to determine after the evidence is led. The legal and evidentiary nuances of the charges under Sections 406 and 420 of the IPC are also matters best left for the Trial Court to determine after the evidence is led.

- 12.** In view of the reasons stated above, I am convinced that this revisional application is devoid of merit. The issues raised are not matters of pure law but are deeply intertwined with factual disputes that require a full and proper trial for their resolution. To interfere with the proceedings at this preliminary stage would be to impede the course of justice.
- 13.** Accordingly, the instant revisional application, CRR 1393 of 2021, is dismissed.
- 14.** There shall be no order as to costs.
- 15.** Any interim orders previously granted stand vacated.
- 16.** The Trial Court Record (TCR), if any, shall be transmitted to the Trial Court at once, and the Case Diary, if any, be returned forthwith.
- 17.** Case Diary, if any, be returned forthwith.
- 18.** Let a copy of this judgment be forthwith transmitted to the concerned Trial Court for information and necessary action.
- 19.** Urgent Photostat certified copy of this judgment, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Uday Kumar, J.)