

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

Present:

Justice Bibhas Ranjan De

C.R.R. 2076 of 2022

CRAN 3 of 2025

Subrojoyoti Nandi

Vs.

The State of West Bengal & Anr.

For the Petitioner

:Ms. Sreeparna Das, Adv.

Mr. Aditya Ratan Tiwary, Adv.

For the Opposite party No. 2

:Mr. Anand Keshari, Adv.

Mr. Jayshankar Mukherjee, Adv.

Mr. Soumili Chowdhury, Adv.

Mr. Pubali Debnath, Adv.

For the State

:Mr. Debasish Roy, Ld. PP.

Ms. Saryati Dutta, Adv.

Ms. Debarshi Brahma, Adv.

Last Heard on

:09.09.2025

Judgment on

:25.09.2025

Bibhas Ranjan De, J.

1. This is an application under Section 482 of the Code of Criminal Procedure assailing the proceeding of G.R. Case No. 211 of 2022 arising out of Bidhannagar Police Station Case No. 24 of 2022 dated 17.02.2022 under Sections 420/406 of the Indian Penal Code (hereinafter referred to as IPC), presently pending before the Court of Learned Additional Chief Judicial Magistrate, Bidhannagar.
2. The story of the prosecution in brief is that the opposite party no. 2 herein/defacto complainant lodged a written complaint dated 30.08.2021 alleging *inter alia* that the petitioner siphoned Rs. 1,56,73,000/- periodically in between September 2020 to July 2021 to his personal bank account from the account of the company named Faang Wealth Advisory Private Limited while acting as Director of the company with the intention to commit the cheating while usurping the opportunity of the absence of the defacto complainant who was in rehabilitation centre from September 2020- December 2020. Moreover, the laptop, electronic data in pendrives, documents, Debit Card of Firm's

bank accounts along with other articles were lying in the custody and control of the petitioner due to which the defacto complainant could not access the client's account in some of the portals without the co-operation of the petitioner as the OTP could not be delivered directly to the complainant because the petitioner allegedly registered his own digital signature/personal e-mail ID/ personal mobile number/ password in the various government portals. The defacto complainant is also not aware as to how the petitioner is using such data with mala fide intentions to cause further wrongful loss and reputation to the Firm.

- 3.** Based on the aforesaid complaint, Bibhannagar Police Station Case No. 24 of 2022 dated 17.02.2022 corresponding to G.R. Case no. 211 of 2022 under Sections 420/406 of the IPC was started against the petitioner and upon completion of investigation charge sheet being no. 23 of 2022 dated 28.02.2022 under Sections 420/406 of the IPC was submitted against the petitioner. Being aggrieved the petitioner has preferred the instant application with a prayer for exercise of inherent jurisdiction with respect to second FIR which has been impugned herein.

Argument advanced:-

4. Ms. Sreeparna Das, Ld. Counsel, appearing on behalf of the petitioner has contended that petitioner has already been arraigned as an accused in a case which was lodged prior to the instant case i.e. Bidhannagar East Police Station Case 111 of 2021 dated 30.08.2021 corresponding to G.R. Case No. 1054 of 2021 under Sections 408/420 of the IPC which has also been filed on the self same false and frivolous allegations by the defacto complainant. In this regard, Ms. Das has relied on the averments of both the complaints which ultimately culminated into two FIR's against the petitioner on identical cause of action and submitted that the impugned proceeding should not have been registered as it could have easily been treated as the statement of the defacto complainant under Section 161 of the Code of Criminal Procedure (hereinafter referred to as CrPC) just to supplement the incidents narrated in the first complaint dated 30.08.2021.
5. Before parting with, Ms. Das has further added that Section 406 IPC cannot run concurrently with Section 420 of the IPC

as Section 406 requires mutual trust whereas Section 420 requires element of deception.

6. In order to further substantiate her argument Ms. Das has relied on the case of ***Delhi Race Club (1940) Ltd. & Ors vs. State of Uttar Pradesh & Anr., (2024) 10 SCC 690*** .
7. In opposition to that, Mr. Anand Keshari, Ld. Counsel, appearing on behalf of the opposite party no. 2 by specifically relying on the latter portion of the complainant dated 17.02.2022 has tried to make this Court understand that there has been significant addition of allegation and statements in connection with misappropriation of electronic devices as well as other articles and credentials of the Firm with mala fide intention. Therefore, in no stretch of the imagination it can be said that both the complaints are based on identical scenarios and allegations.
8. Mr. Debasish Roy, Ld. PP, appearing on behalf of the State by relying on the contents of the impugned charge sheet has tried to make this Court understand that there is sufficient incriminating material to prima facie make out a case against the petitioner and there is no requirement to thwart the impugned proceeding at this nascent stage.

Analysis:-

- 9.** At the outset, before delving into the intricacies of the issue at hand, it would be convenient as well as expedient to reproduce a specific portion of the first FIR which is set forth hereunder:-

“ It would be pertinent to mention here that electronic data, documents, pen drives and other articles are lying in the custody and control of the said Mr. Nandi and it is not known that behind our back how those data etc. are malafidely utilized in future by Mr. Nandi who cause further wrongful loss and reputation of the company.

It will be further significant to mention here that in his letter he has admitted the entrustment, signing authority of the cheques and having his possession of laptop and other data. ”

- 10.** It is not disputed that the petitioner submitted his resignation with respect to his employment in the Firm as article clerk but not from his directorship of the company. There is no specific averment in the first FIR that electronic data, documents, pen drives and other articles in respect of company, are lying in the custody and control of the

petitioner. That apart, custody of the laptop and other data of the Firm was admitted by the petitioner himself in his resignation letter dated 05.08.202. Therefore, second FIR ought not to have been entertained only for recovery of laptop and other articles of the Firm.

11. Upon thorough examination of the initial complaint, it is manifestly apparent that the allegation mainly is that petitioner has engaged in calculated scheme of criminal breach of trust and cheating. The egregious misconduct was perpetrated against both the company as well as the Firm, evidenced by the accused's wrongful appropriation of entrusted assets including a laptop and pen drives and other electronic data as detailed in quoted paragraph of the initial complaint.

12. Factual matrix adorning the present case stands in harmonious consonance with, and derives its legal moorings from, the time honoured ratio decidendi enshrined in the illustrious judicial precedent of ***T.T. Antony vs. State of Kerala, (2001) 6 Supreme Court Cases 181***, which has illuminated the legal landscape with following profound observation:-

“19. *The scheme of CrPC is that an officer in charge of a police station has to commence investigation as provided in Section 156 or 157 CrPC on the basis of entry of the first information report, on coming to know of the commission of a cognizable offence. On completion of investigation and on the basis of the evidence collected, he has to form an opinion under Section 169 or 170 CrPC, as the case may be, and forward his report to the Magistrate concerned under Section 173(2) CrPC. However, even after filing such a report, if he comes into possession of further information or material, he need not register a fresh FIR; he is empowered to make further investigation, normally with the leave of the court, and where during further investigation he collects further evidence, oral or documentary, he is obliged to forward the same with one or more further reports; this is the import of sub-section (8) of Section 173 CrPC.*

20. *From the above discussion it follows that under the scheme of the provisions of Sections 154, 155, 156, 157, 162, 169, 170 and 173 CrPC only the earliest or the first information in regard to the commission of a cognizable offence satisfies the requirements of Section 154 CrPC. Thus there can be no second FIR and consequently there can be no fresh investigation on receipt of every subsequent information in respect of the same cognizable offence or the same occurrence or incident giving rise to one or more cognizable offences. On receipt of information about a cognizable offence or an incident giving rise to a cognizable offence or offences and on entering the FIR in the station house diary, the officer in charge of a police station has to investigate not merely the cognizable offence reported in the FIR but*

also other connected offences found to have been committed in the course of the same transaction or the same occurrence and file one or more reports as provided in Section 173 CrPC.”

13. Therefore, the Hon’ble Apex Court after analyzing the scheme of the provisions of Sections 154/155/156/157/162/169/170 & 173 of the CrPC, came to the holding that only the earliest or the First Information in regard to the commission of a cognizable offence satisfies the requirements of Section 154 of the CrPC and therefore, there can be no second FIR and consequently, there can be no fresh investigation on receipt of every subsequent information in respect of the same cognizable offence or the same occurrence or incident giving rise to one or more cognizable offences. Moreover, it was further observed that on receipt of information about a cognizable offence or an incident giving rise to a cognizable offence or offences and on entering the FIR in the station house diary, the officer in charge of the concerned police station has to investigate not merely the cognizable offence reported in the FIR but also other connected offences found to have been committed in course of the same transaction or the same occurrence and

file one or more reports as provided in Section 173 of the CrPC.

14. It stands categorically and unequivocally averred in the premodial First Information Report that the accused/petitioner, in a gesture of professional propriety, tendered his resignation from his position within CA Firm whilst simultaneously acknowledging and admitting to the lawful custody of the laptop, computer and sundry other articles belonging to the said establishment. Given this incontrovertible factual matrix and crystalline admission of custodial possession already placed on record, any subsequent second information or wrongful retention of the very same laptop and ancillary articles would constitute an impermissible and legally untenable duplication of proceedings, thereby rendering such secondary complaint wholly inadmissible and deserving of summary rejection.

15. In the light of the discussion made hereinabove and while keeping an eye to the settled proposition of law in this regard, I find no other alternative but to quash the second FIR which has been impugned in this revision application.

- 16.** Consequently, the instant revision application being no. CRR 2076 of 2022 stands allowed.
- 17.** As a sequel, the proceeding in connection with G.R. Case No. 211 of 2022 arising out of Bibhannagar Police Station Case No. 24 of 2022 dated 17.02.2022 stands quashed.
- 18.** Photocopy of the Case diary be returned at once.
- 19.** Connected applications, if any, stand disposed of accordingly.
- 20.** All parties to this revisional application shall act on the server copy of this order duly downloaded from the official website of this Court.
- 21.** 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.]