

15.12.2025
Item No.1
Ct. No. 34
nb

CRR 1944 of 2023

In the matter of: **Alok Kumar Ghosh.**

..... petitioner.

Mr. Angshuman Chakraborty,
Mr. S. S. Saha,
....For the Petitioner

1. This revisional application has been filed for quashing of the Complaint Case being No.AC 949 of 2021 under Section 200 of the Code of Criminal Procedure alleging offences punishable under Sections 341/323/506 of the Indian Penal Code pending before the Learned Judicial Magistrate 2nd Court, Alipore South 24 Parganas.
2. The brief facts of the case that the petitioner is presently 65 years of age and joined the service 1985 and presently is employed as Associate Professor and is the Head of the Department of History, in the University of Kalyani. He hold position as nominee of Ministry of Culture, Govt. of India to the Council of the Asiatic Society, Kolkata, External Expert Member of the Board of Studies, PG, Mushidabad University Berhampur, West Bengal. He was also member of Advisory Committed of Directorate Open and Distance Learning, Kalyani University. He was given the certificate of excellence of his carrier by the Kalyani University. The opposite party joined the Directorate of Open and Distance Learning, Kalyani University as Director on contractual basis in the year

2017. The present petitioner raised objection to such appointment of the opposite party as it was not in accordance with law.

3. A complaint was lodged before the Registrar, Kalyani University on November 30, 2017 by the student of the said university against the opposite party regarding sexual harassment and molestation by the opposite party no.2 and the date of such act was alleged to be of November 19, 2017. After the incident of such sexual harassment as lodged against the opposite party, Registrar, University of Kalyani terminated contractual appointment of the opposite party by their memo dated December 12, 2017.
4. Later on a complaint was lodged by the present opposite party under Section 200 of the Cr.P.C. against the present petitioner before the Learned Additional Chief Judicial Magistrate, Alipore, which was registered as AC 949/2021 alleging, *inter alia*, against the petitioner that on 15.1.2020 at about 12.30 P.M. when the complainant went to his personal work at Jadavpur University campus post office, then present petitioner restrained him with some hooligan and mentally harassed him by using slang language in Jadavpur University Campus, when complainant protested such illegal activities, the petitioner and others threatened him with dire consequences. It was further alleged that the complainant also received threat calls from several fictitious phone numbers. After the summons were issued and the petitioner was directed to answer charges of sections 341/323/506 of the Indian Penal Code.

5. Learned counsel representing the petitioner argued that the complaint has been raised out of grudge and vengeance as the present petitioner raised protest regarding the appointment of the opposite party.
6. It is further submitted that further grudge of the opposite party against the present petitioner was because of the fact that he supported the female students, who lodged the complaint alleging sexual harassment against the complainant.
7. It is further argued that such allegation was on January 15, 2020 at about 12.30 P.M. and the complaint has been lodged on April 19, 2021 and there is delay in filing the complaint. That apart, no ingredients are there to attract Section 200/341/323/506. No *mens rea* can be found against the present petitioner as the termination of the opposite party by the University, on the basis of the complaint lodged by the female students. It is further submitted that the learned Magistrate took cognizance in applying his judicial mind to pass the reasoned order.
8. Learned advocate also produced documents filed by the complainant and also perused the documents filed by the complainant and was of the view that the case involves of allegations which is civil in nature between two professors in the same University. Therefore, he found that the case for investigation under Section 202 of the Code of Criminal Procedure for the purpose of deciding as to whether there exists sufficient ground for proceeding against the accused persons as well as complicity of the proceeding.

9. Further argument advanced on August 16, 2022 that the report was submitted before the Court by the Sub-Inspector of Jadavpur Police Station and such report did not disclose any such material on the basis of the same the complainant was examined but the statement given by the complainant also did not disclose any of the offence as alleged in the complaint lodged by opposite party no.2.
10. Therefore, the present petitioner has come before this Court for quashing of the said complaint case.
11. In this case, no one is representing on behalf of the opposite party despite receiving service, which has been recorded in the order dated December 8, 2025 by this Court and the matter is heard in absence of the opposite party.
12. In the case of ***National Bank of Oman Vs. Barakara Abdul Aziz & Anr.*** reported in ***(2013) 2 SCC 488*** it was held that prior to issuance of process, it was incumbent upon court to check both the authenticity of the allegation and complexity of the accused in relation to the alleged offence. In the decision of ***Paramjeet Batra Vs. State of Uttarakhand*** reported in ***(2013) 11 SCC 673*** it was held that as dispute is civil in nature it given a reckon for criminal offence, then such dispute can be quashed. In that case, the dispute was referred was of breach of contract and it was held by the Hon'ble Supreme Court that no criminal elements were found. In the decision of ***Bhajanlal Vs. State of Haryana*** reported in ***1992 Supp.(1) SCC 335*** paragraph 8.1 the situations are described where the power under Section 482 can be exercised.

“In one of the recent pronouncements of this Court in **Mahmood Ali & ors. Vs. State of U.P. & Ors., 2023 SCC Online SC 950**, the legal principle applicable apropos Section 482 of the Cr.P.C. was examined. Therein, it was observed that when an accused comes before the High Court, invoking either the inherent power under Section 482 Cr.P.C. or the extraordinary jurisdiction under Article 226 of the Constitution, to get the FIR or the criminal proceedings quashed, essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive or wreaking vengeance, then in such circumstances, the High Court owes a duty to look into the FIR with care and a little more closely. It was further observed that it will not be enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not as, in frivolous or vexatious proceedings, the court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection, to try and read between the lines.”

13. In this case, on the face of the complainant, it can be found that both the parties are responsible person in their respective field being professor of Kalyani University and impressive academic qualification. However, long back in the year 2017, on the basis of the incident, the present opposite party was terminated by the University, on the basis of the complaint lodged by the female students alleging sexual harassment and molestation. On perusal of the content of the complaint primarily it can be found that the complainant was restrained by the petitioner with mental harassment by the use of slang language. No allegation can be found to have been raised, in this case, on the date of incident i.e. on January 15, 2020 at 12.30 P.M. No specific date or names have been mentioned in

the complaint but introduced themselves as friends of the accused persons and threatened him with dire consequences and abused him under Section 341 of the IPC. Nothing can be inflicted from the four corner of the complaint, immediately after the said accident, no intimation was given to the nearest police station. However, while examined by the Court, he informed that the local P.S. as well as the Superintendent of Police that no document or any date can be found in the body of the complaint. From the above nature of the incidents and considering the situation as described by the Hon'ble Supreme Court in the case of ***Bhajanlal Vs. State of Haryana***, it can be found that allegation made in the FIR from the complaint even if they are taken and in their entirety did not prima facie constitute any offence or make out a case against the accused and also where the controverted allegations mentioned in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused persons under Section 482 of the Code of Criminal Procedure is to be exercised by High Court.

14. In the instant case, as discussed that complainant himself stated that alleged incident occurred on June 29, 2017 when he was terminated from his service as directed by DODL (Director) for Open and Distance Learning of University of Kalyani and several allegations raised by the present petitioners, which are false and fabricated. He mentioned about the incident on January 15, 2020 regarding the use of slang language and illegal confinement in the complaint. He

informed the matter to the police authorities when nothing was mentioned in the complaint.

15. The ratio decidendi of the judicial pronouncement speaks of exercising power under section 482 of the CrPC whereby the Court has to act cautiously before proceeding to quash a prosecution in respect of an offence which hits the society at large. However, court should not be hesitant to quash the proceeding in proper case in order to prevent abuse of the process of any Court or to secure the ends of justice.
16. Therefore, the aforesaid facts and circumstances clearly manifest that the complaint proceeding is for *prima facie* is tacking of any substance and it is settled that where such proceeding maliciously institute with a motive for reckoning vengeance on the accused for personal grudge of BNSS for quashing the said proceeding.
17. Hence this court finds no reason for directing the proceeding to be continued as it would otherwise amount to gross abuse of the process of law.
18. This revisional application stands allowed.
19. The proceeding pending before the learned Trial Court stands quashed.
20. All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(CHAITALI CHATTERJEE (DAS), J.)