

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. 2725 of 2022
Amartya Sinha and Others
Versus
The State of West Bengal & Anr.
With
C.R.R. 2136 of 2022
Pankaj Kumar Das & Ors.
Versus
The State of West Bengal & Anr.
With
C.R.R. 2138 of 2022
Pankaj Kumar Das & Anr.
Versus
The State of West Bengal & Anr.

For the Petitioners	:	Mr. Sobhendu Sekhar Roy Adv.
In CRR 2725 of 2022		Mr. Amarendra Chakraborty, Adv.
& Opposite Party No. 2		Mr. Tonmay Chatterjee, Adv.
In CRR 2136 of 2022		
& CRR 2138 of 2022		

For the Petitioners : Mr. Souvik Mitter, Adv.
In CRR 2136 of 2022 Mr. Angshuman Chakraborty, Adv.
& CRR 2138 of 2022 Mr. S. S. Saha, Adv.
& Opposite Party No. 2
In CRR 2725 of 2022

For the State : Mr. Imran Ali, Adv.
In CRR 2725 of 2022 Ms. Debjani Sahu, Adv.

For the State : Mr. Madhusudan Sur, Ld. APP
In CRR 2136 of 2022 Mr. Dipankar Paramanick, Adv.
& CRR 2138 of 2022

Heard On : 17.04.2025

Judgment On : 15.07.2025

Ajay Kumar Gupta, J:

1. All the three Criminal Revisional applications are taken up together for the sake of convenience and for passing a common Judgment, as the disputes cropped up due to property related issue between the two families of next-door neighbours.

2. **CRR No. 2136 of 2022** has been filed under Section 482 of the Code of Criminal Procedure, 1973 by the petitioners, namely, Pankaj Kumar Das, Pradyumna Das and Subrata Mondal seeking quashing of the Complaint Case being AC 1845 of 2021 initiated under Section 200 of the Code of Criminal Procedure, 1973 pending before the Learned Judicial Magistrate, 9th Court, Alipore, South 24 Parganas and the impugned order dated 26.11.2021 whereby the Learned Magistrate took cognizance and issued process against the present petitioners.

3. The aforesaid complaint was filed by the opposite party no. 2 – Hiran Kumar Sinha under Section 200 of the CrPC before the Learned Additional Chief Judicial Magistrate on 09.09.2021 against the present petitioners alleging, *inter alia*, as under: -

“The complainant is the owner of landed property measuring about 2 cottahs 10 chittacks 16 sq ft by a registered deed dated 03.03.2000. Thereafter, the

complainant obtained sanctioned plan from KMC and constructed one storied building. The complainant suddenly found that postal correspondence Governmental documents and electricity bill were not getting delivered to him. Thereafter, he came to learn that the address of the complainant is same as of Pankaj Kumar Das. Thereafter, such address was corrected by the KMC. The said Pankaj Kumar Das entered into criminal conspiracy using the premises no. 493-A, Bachar Para Road and took electricity connection, LPG gas and also took water supply connection by submitting false documents. The said Pankaj Kumar Das, using such address, secured his admission at Indian School of mines. The assessor/collector, KMC allotted different address to the said Pankaj Kumar Das and due to previous grudge, caused various sorts of disturbances and annoyance towards the peaceful living and enjoyment of the complainant. The said Pankaj Kumar Das along with one Subrata Mondal, knowing about the evidence of the complainant and his property on the western side, cunningly and surreptitiously obtained sanctioned plan by showing the complainant's property as premises no. 493, Bachar Para Road instead of 493-A, Bachar Para Road and executed boundary declaration and cheated the complainant."

4. Subsequently, upon transfer of the said case before the Learned Judicial Magistrate, 9th Court, Alipore for its disposal, the Learned Magistrate took cognizance under Sections 420/120B of the IPC after recording initial deposition of opposite party no. 2/complainant as P.W. 1, and the process was issued.

5. Though the contention of the petitioners is that the allegations levelled against them are false, frivolous and vexatious and that they are in no way connected with the offence as alleged by the de-facto complainant. Hence, this application.

6. **CRR No. 2138 of 2022** has been filed under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973 by the petitioners, namely, Pankaj Kumar Das and Pradyumna Das challenging the order dated 02.05.2022 passed by the Learned Additional Chief Judicial Magistrate, Alipore in connection with Thakurpukur P.S. Case No. 49/2021 dated 10.03.2021 under Sections 120B/467/468/471/324/323/354/506/511 of the Indian Penal Code. By the said order, the Learned Magistrate directed further investigation of the case by the police. The aforesaid Thakurpukur P.S. Case was initiated at the behest of opposite party no. 2 – Hiran Kumar Sinha who alleged, *inter alia*, as under: -

“On 15.12.2020 at about 11 am, one Pankaj Kumar Das threw garbage to the main entrance of the complainant’s house and on protest, the accused person grew furious and started to abuse the complainant and his family members in filthy language and threatened the complainant with dire consequences and said that he would entangle son of the complainant in some false cases and assaulted the complainant. When the wife of the complainant tried to rescue the complainant, the accused persons also assaulted the complainant’s wife and tried to outrage her modesty.”

7. The case of the petitioners in the aforesaid matter is that the case was initiated either falsely or due to a misunderstanding of the actual facts. After thorough investigation, a final report being No. 47/21 dated 31.07.2021 under Sections 120B/467/468/471/324/323/354/506/511 of the Indian Penal Code, opining the case to be a mistake of fact and was submitted before the Learned Magistrate on 16.02.2022.

8. However, the opposite party no. 2 filed a Narazi Petition against the said final report. The Learned Magistrate allowed the said Narazi Petition and directed the investigating agency to conduct further investigation on 02.05.2022. Hence, this application.

9. CRR No. 2725 of 2022 has been filed under Section 482 of the Code of Criminal Procedure, 1973 by the petitioners, namely, Amartya Sinha, Hiran Kumar Sinha (the complainant of the aforesaid two cases) and Ruma Sinha seeking quashing of the proceedings being A.C.G.R. Case No. 1995 of 2022 arising out of Thakurpukur P.S. Case No. 127/22 dated 12.05.2022 under Sections 341/323/324/509/354/506/114 of the Indian Penal Code, 1860 pending before the Court of the Learned Additional Chief Judicial Magistrate, Alipore.

10. In this case, Smt. Parul Das, wife of Pankaj Kumar Das, accused in aforesaid two cases made allegations, *inter alia*, against the aforesaid petitioners as under: -

“With due respect, I, Smt. Parul Das, wife of Sri Pankaj Kumar Das of 493B, Bachar Para Road, P.O. & P.S. Thakurpukur, Kolkata -700 063 do hereby state that on 04.05.2022 at about 9 A.M. while I was going to market, those miscreants namely 1. Amartya Singh son of Hiron Kumar Sinha 2. Hiron Kumar Sinha son of Late Jyotindra Nath Sinha and 3. Ruma Sinha wife of Hiron Kumar Sinha all of 493A, Bachar Para Road, P.O. & P.S. Thakurpukur, Kolkata -700063 wrongfully restrained and confined me on the road and thereby abused me in most filthy languages and on protest, they turned furious

and assaulted me with a bamboo slit, kick, fist and blows and were using some words and gesture in order to insult my modesty and also threatening me by saying - "Ake bare mere felbo. Ekhane thakte debo no. Tor kon baba ache toke banchay dekhbo. Tor chaler pass port, visa cancel kora or life sesh kore debo.

In the mean time, Hiron Kumar Sinha and Ruma Sinha caught my hair, fell me down on the road and tore my wearing apparel, also started assaulting me by uttering slang languages and finding no other way, I raised my voice and the local people came to the spot and seeing them those miscreants fled away by saying 'Pore dekhe nebo, etc.

For such assault, I sustained pain and injury on my person and thereby I went to Vidyasagar Hospital for my treatment and I was so moaning lay in pain that I informed Police on that date vide G.D. Entry No. 265 Thakurpukur P.S. dated 04.05.2022."

11. Though the case of the petitioners in this case is that the criminal case was initiated against them by the opposite party no. 2, who is the wife of Pankaj Kr. Das, as a counter-blast to the aforesaid two criminal cases i.e. one complaint case and another police case initiated against the husband and son of the opposite party no. 2, with mala fide intention and with an ulterior motive for wreaking

vengeance upon the petitioners and also in order to spite them due to private and personal grudge. Hence, this application.

12. Learned counsel appearing on behalf of the petitioners in CRR 2136 of 2022 and CRR 2138 of 2022 vehemently argued and submitted that two proceedings have been initiated on the same cause of action. One is under Section 200 of the CrPC and another is under Section 156(3) of the CrPC. It is contended that both the cases are false, fabricated and frivolous. Petitioner no. 1 is father, petitioner no. 2 is son and petitioner no. 3 in CRR 2136 of 2022 was the erstwhile owner of the property. The central issue in these cases arises out of a property dispute. It is further submitted that nearly half of the disputed land was purchased by petitioner no. 1, Pankaj Kumar Das, through a registered sale deed.

13. It is also submitted that both the cases are running simultaneously although the cause of action arose on the same set of facts. The allegations made in both the cases do not constitute any cognizable offence rather constitute non-cognizable offences. No investigation is permissible by the police officer without any order of Magistrate as contemplated under Section 155(2) of the Code of Criminal Procedure. But, without considering the actual facts, the Learned Court below issued summons against the present petitioners

mechanically in AC 1845 of 2021. The second case, it is submitted, relates to the same incident and was diarised again.

14. The factual background, as narrated by the petitioners is that one Sudhanshu Mondal, the father of the petitioner no. 3, Subrata Mondal, was the actual owner of the Plot No. 493, Bachar Para Road, Ward No. 125, Kolkata – 700 063 measuring an area of 5 Cottahs and 7 Chittacks. Out of the said land, he sold part of the said land measuring an area of 2 Cottahs, 10 Chittacks and 10 Sq. Ft. to the Opposite Party, Hiran Kumar Sinha. Newly purchased land was numbered as premises No. 493-A, Bachar Para Road, Kolkata-700 063 in favour of the opposite party no. 2 - Hiran Kumar Sinha.

15. It was further submitted that after the death of Sudhanshu Mondal, his two sons, namely, Subrata Mondal and Debarata Mondal became the joint owners of the rest of the land measuring about 2 Cottahs 5 Chatak 24 Sq. Ft. The said remaining portion of land was purchased by the petitioner no. 1, Pankaj Kumar Das and applied for a sanction plan for the portion he purchased from the statutory authority and paid the requisite fees to the Kolkata Municipal Corporation for such purpose.

16. The Corporation accepted such fees and sanctioned the building plan in favour of the petitioner no. 1, Pankaj Kumar Das for

493A, Bachar Para Road. The Kolkata Municipal Corporation also accepted the property taxes and gave a conversion certificate to the petitioner no. 1. The KMC erred in allotting the same premises no. i.e. 493A, Bachar Para Road in favour of the petitioner no. 1 as well as in favour of opposite party no. 2- Hiran Kumar Sinha. It was fully unaware of the allotment of premises no. 493A, Bachar Para Road also in favour of Hiran Kumar Sinha.

17. The opposite party no. 2- Hiran Kumar Sinha filed a title suit before the Learned Additional Civil Judge, Junior Division, 2nd Court, Alipore and the same is pending. The petitioner no. 1- Pankaj Kumar Das knowing the said facts, approached the KMC for correction of assessment and allotment of new premises number for his plot of land. Notices were served on all the parties and, after hearing, the KMC authorities have allotted and renumbered the wrongly given premises no. 493A and made it 493B, Bachar Para Road vide order of Assessor Collector dated 11.09.2019 and after such correction, communication has been made by the KMC, thereafter, petitioner changed his premises number in his Aadhaar Card, Epic Card, Electric Bill, KMC taxes, water supply etc. from 493A Bachar Para Road to 493B, Bachar Para Road. Despite full knowledge of the entire facts, the opposite party no. 2- Hiran Kumar Sinha only to harass filed a complaint case being No. AC 1845/2021 alleging offences

punishable under Sections 420/120B/468/471/34 of the IPC and cognizance was taken under Sections 420/120B of the IPC. Therefore, the Learned Court below, while taking cognizance, failed to appreciate that the premises number allotted by the KMC to the petitioner as 493A, Bachar Para Road as well as opposite party no. 2 as 493A, Bachar Para Road was due to error and inadvertently allotted the same premises no. 493A, despite the existence of two different premises and owners. Petitioners had no role to play or there is no question of any forging document or cheating. The complaint itself reveals that the KMC corrected the premises numbers. Therefore, the said proceeding is required to be quashed and the process was issued by the Learned Magistrate is also required to be set aside as the matter was totally civil in nature and civil suit has already been initiated by the opposite party no. 2 and the same is pending. In addition, the dispute regarding premises numbers have been set at rest by the KMC after correction.

18. It was further submitted that the complainant also initiated another complaint under Section 156(3) on a similar set of allegations and the same was directed to register as an FIR being Thakurpukur P.S. Case No. 49/2021 dated 10.03.2021 under Sections 120B/467/468/471/324/323/354/506/511 of the Indian Penal Code. However, the same was initially ended in FRT as case is of the

civil in nature and a civil suit is pending between the parties and KMC has already corrected its error and communicated the same by its official memo to the parties. Petitioner no. 1 is retired from service and his son is a brilliant student and who has a brilliant academic career. He passed his B. Tech from Jadavpur University and M. Tech from Dhanbad and presently pursuing PhD. Degree from Kanpur IIT. So, the question of cheating or criminal conspiracy does not arise or throwing garbage to the main entrance of the complainant's house and on protest, started to abuse the complainant and his family members in filthy language and threatened the complainant with dire consequences that he would entangle son of the complainant in some false cases and assaulted the complainant is totally false case. It is a false allegation and no such incident ever occurred. Therefore, both the cases are liable to be quashed.

19. Per contra, Learned Counsel appearing on behalf of the Petitioners in CRR 2725 of 2022 strenuously argued and further submitted that Thakurpukur P.S. Case No. 127/22 dated 12.05.2022 under Sections 341/323/324/509/354/506/114 of the Indian Penal Code, 1860 has been initiated by Parul Das, wife of Pankaj Kumar Das as a counter blast of two previous cases initiated by the petitioner no. 2 – Hiran Kumar Sinha against her husband, erstwhile owner of the property and son of Pankaj Kr Das. One case has been

filed under Section 200 of CrPC and another case under Section 156(3) of CrPC as they have committed criminal offences.

20. It was further submitted that Pankaj Kumar Das entered into criminal conspiracy using the premises no. 493-A, Bachar Para Road and took electricity connection, LPG and also took water supply connection by submitting false documents. Pankaj Kumar Das, using such address, secured his admission at Indian School of Mines. The assessor/collector, KMC allotted a different address to the said Pankaj Kumar Das and due to previous grudge, caused various sorts of disturbances and annoyance to the peaceful living and enjoyment of the complainant. The said Pankaj Kumar Das along with one Subrata Mondal, knowing about the evidence of the complainant and his property on the western side, cunningly and surreptitiously obtained sanctioned plan by showing the complainant's property as premises no. 493, Bachar Para Road instead of 493-A, Bachar Para Road and executed boundary declaration and cheated the complainant and further threw garbage to the main entrance of the complainant's house and on protest, started to abuse the complainant and his family members using filthy language and threatened the complainant with dire consequences that he would entangle son of the complainant in some false cases and assaulted the complainant.

21. However, the Investigating Officer has not properly investigated the case and finally submitted a final report as the mistake of facts. Therefore, the Learned Magistrate rightly directed for further investigation as the initial investigation was not properly done, as such, both the Criminal Revisional applications are liable to set aside.

22. The learned counsels representing the state produced the Case Diaries of both cases i.e. (1) Thakurpukur P.S. Case No. 127/22 dated 12.05.2022 under Sections 341/323/324/509/354/506/114 of the Indian Penal Code and (2) Thakurpukur P.S. Case no. 49/22 dated 10.03.2021 under Sections 120B/467/468/471/324/323/354/506/511 of the Indian Penal Code and further submitted that sufficient materials were collected during the investigation against the accused persons, therefore, both the cases need to be continued for trial to unearth the truth. Therefore, these applications are liable to be dismissed.

23. Considering the rival arguments advanced by the Learned Counsels on behalf of their respective parties and submissions made thereof and careful perusal of the case diaries produced by the State in both the aforesaid cases, this Court is of the considered view that the genesis of all three cases are due to inadvertent mistake on the

part of KMC. Hiran Kumar Sinha and Pankaj Kumar Das have purchased their respective share of the premises No. 493, Bachar Para Road from the erstwhile owners. Initially, a premises number was allotted as 493-A, Bachar Para Road in favour of Hiran Kumar Sinha and, subsequently, Pankaj Kumar Das was also allotted a similar number as 493A, Bachar Para Road. But subsequently, an application was filed by Pankaj Kumar Das for correction of the number of premises with the concerned authority, when it came to his knowledge. The KMC has after consideration of the issue settled the dispute and allotted two different numbers to the respective purchasers. 493A, Bachar Para Road has been allotted in favour of Hiran Kumar Sinha and 493B, Bachar Para Road has been allotted in favour of Pankaj Kumar Das. Later, such disputes turned into criminal acts such as abusing each other with filthy languages, threatening and physical assault though both parties are next-door neighbours.

24. Despite the said facts, Hiran Kumar Sinha filed a complaint case under Section 200 of CrPC and another complaint under Section 156(3) of the CrPC on the self-same issue. Not only that, Hiran Kumar Sinha also filed a title suit and the same is also pending. Though, the matter is purely civil in nature. The said complaint under Section 200 of CrPC should not be continued otherwise it

would be definitely an abuse of process of law as the complaint itself reveals the KMC has corrected the address of the parties herein. It was a mistake on the part of KMC while allotting premises number to them. After correction of the premises number, the accused Pankaj Kumar Das has changed his premises number in his Aadhaar Card, Epic Card, Electric Bill, KMC taxes, water supply etc. from 493A Bachar Para Road to 493B, Bachar Para Road.

25. From the entire evidence and the documents placed before this Court and on perusal of the CD, this Court finds there are no materials against the present petitioners with regard to offences punishable under Sections 420/120B of the IPC. The complaint was initiated by suppressing all the material facts and, therefore, the same is liable to be quashed, whereas, the FIR being Thakurpukur P.S. Case No. 49/2021 dated 10.03.2021 under Sections 120B/467/468/471/ 324/323/354/506/511 of the Indian Penal Code was initiated on the basis of complaint made before the Learned Magistrate and, after investigation, the Investigating Officer filed a final report as a mistake of fact. But, subsequently, after filing Narazi Petition by the complainant, Hiran Kumar Sinha, the same was allowed by the Learned Magistrate on 02.05.2022 as it was found that there were two vital deficiencies in the material available in the final report. **Firstly**, no steps were taken by the Investigating Officer

to examine the complainant's wife under Section 164 of the CrPC, who was the victim of the criminal offence punishable under Sections 323/324/354/511 of the Indian Penal Code. She was assaulted by the accused persons or used criminal force on her with intent to outrage her modesty, when the incident happened on 15.12.2020 at about 11 am and **secondly**, the wife of the complainant was also not examined under Section 161 of the CrPC. She is a vital witness, whose statement is necessary for the purpose of filing Final Report. Therefore, the Learned Magistrate has rightly directed for further investigation as the whole investigation appears perfunctory and submitted in a mechanical manner.

26. In view of the facts, until and unless the statements of the victim are recorded by the investigating officer, actual truth cannot be uncovered. Without proper investigation, it would be very difficult to come to a conclusion that the case was falsely initiated. Thus, in order to prevent miscarriage of justice, the matter requires further investigation. Therefore, I do not find any sufficient or cogent ground to interfere with the order passed by the Learned Magistrate for further investigation. Therefore, the same is liable to be dismissed.

27. So far as another FIR being Thakurpukur P.S. Case No. 127/22 dated 12.05.2022 under Sections 341/323/324/509/354

/506/114 of the Indian Penal Code, 1860 is concerned, this court finds that the complainant, Parul Das lodged complaint against the accused persons. The allegation made against them is that on 04.05.2022 at about 9 A.M. while she was going to market all the accused persons wrongfully restrained and confined her on the road and thereafter abused her in the most filthy languages and on protest, they turned furious and assaulted her with a bamboo slit, kick, fist and blows and were using some words and gestures in order to insult her modesty and also threatening her with dire consequences. During investigation sufficient prima facie material was collected. The injury report of Putul Das was also collected by the Investigating Officer. Upon perusal of such injury report and other materials available in the case diary, this Court finds that a prima facie case has been established against the accused persons. In such a situation, this Court does not find any sufficient reason to quash the proceeding without conducting trial. Trial is needed to unearth the actual truth. Thus, the application is devoid of merit and, as such, the same is liable to be dismissed. In both the complaints sufficient ingredients are available to constitute the offence as alleged by the respective complainants and the alleged offence is cognizable in nature.

28. In the light of the aforesaid discussions and observations, **CRR No. 2138 of 2022** and **CRR No. 2725 of 2022** are, thus, **dismissed**. Whereas, **CRR No. 2136 of 2022** is, thus **allowed**. Consequently, connected applications, if any, are also, thus, disposed of.

29. The only proceeding being AC 1845 of 2021 under Section 200 of the Code of Criminal procedure now pending before the Learned Judicial Magistrate, 9th Court, Alipore, South 24 Parganas is hereby quashed insofar as the accused/Petitioners, namely, Pankaj Kumar Das, Pradyumna Das and Subrata Mondal are concerned and order dated 26.11.2021 whereby cognizance was taken is also set aside.

30. Interim orders, if any, stand vacated.

31. Let a copy of this order be communicated to the respective courts for information and taking necessary steps.

32 Case diaries be return to the respective counsels for the state.

33. Parties shall act on the server copies of this Judgment uploaded on the official website of this Court.

34. Urgent photostat certified copy of this Judgment, if applied for, is to be given as expeditiously to the parties on compliance of all legal formalities.

(Ajay Kumar Gupta, J.)

P. Adak (P.A.)