

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

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

CRR 2208 of 2017

**Biswajit Pal @ Biswajit Paul
-Vs-
The State of West Bengal & Anr.**

For the Petitioner : Mr. Atis Kumar Biswas
Mrs. Jyoti Agarwala

For the Respondent : Mr. Firdous Samim
Ms. Gopa Biswas
Mr. R. Saha

For the State : Mr. Imram Ali
Mrs. Debjani Sahu

Hearing concluded on : 31.10.2025

Judgment on : 14.11.2025

UDAY KUMAR, J.: –

1. This Court is convened to adjudicate the Revisional Application, C.R.R. No. 2208 of 2017, preferred by the Petitioner, Shri Biswajit Pal. Invoking the inherent powers conferred by Section 482 of the Code of Criminal Procedure, 1973 (the Code), and buttressed by the supervisory authority of Article 227 of the Constitution of India, the Petitioner seeks the singular relief of quashing the criminal proceedings arising from Singur P.S. Case No. 26 of 2016. These proceedings, initiated upon a complaint by Respondent No. 2, Amit Kumar Santra, culminated in a Charge-Sheet under Sections 420, 406, 341, and 323, 34 of the Indian Penal Code (IPC).

2. The factual genesis of the dispute is palpably commercial, pertaining to a breach of contract regarding the supply of Jute Processing machines between the Petitioner (Buyer) and the Respondent No. 2 (Supplier). The Petitioner asserts that upon the Respondent's failure to fully deliver the machines despite a substantial payment of Rs. 38,14,000/-, he initiated legal recourse on January 15, 2016, by lodging Nabadwip P.S. Case No. 11 of 2016 under Sections 420/406 IPC against Respondent No. 2, and a Civil proceeding by filing a complaint before the Consumer Forum, being Case No. CC 139 of 2015, instituted on the same date, i.e., January 15, 2016.
3. The chronology of events is critical to the Petitioner's plea of an abuse of process:
 - a. The Petitioner first initiated both criminal (Nabadwip P.S. Case No. 11 of 2016, under Sections 420/406 IPC) and civil (Consumer Forum Case No. CC 139 of 2015) recourse against the Respondent on January 15, 2016.
 - b. In stark proximity, just eight days later, the Respondent lodged the impugned counter-FIR, alleging assault and coercion related to an incident purportedly occurring seven months earlier (June 11, 2015).
4. This temporal sequence—a proximate counter-filing following an inordinate delay concerning a stale allegation—constitutes a strong indicium of a retaliatory motive. It raises a serious suspicion of a malicious counter-blast intended to wreak vengeance, thereby warranting judicial scrutiny under the *Bhajan Lal* guidelines.
5. Mr. Atis Kumar Biswas, Learned Counsel for the Petitioner, vehemently contended that this subsequent criminal action is a clear abuse of the

process of law, manifestly actuated by malice, intended solely to lend a criminal colour to a purely civil dispute. Therefore, he prayed for quashing of this criminal proceeding.

6. Conversely, Mr. Firdous Samim, Learned Advocate for the respondent and Mr. Imran Ali, the Learned Advocate for the State, relying on the record, asserted that the FIR discloses specific cognizable offences (Sections 341 and 323 IPC). He contended that the claim of mala fides is a disputed question of fact incapable of resolution in this revisional jurisdiction and must necessarily await the full rigour of a trial, thereby praying for the dismissal of the application.
7. The central legal query before this Court is whether the facts disclose a profound abuse of process warranting the extraordinary intervention of summary termination.
8. The power to quash proceedings under Section 482 Cr.P.C. is extraordinary and must be exercised with the utmost circumspection, as definitively established by the Hon'ble Supreme Court in ***State of Haryana v. Bhajan Lal***. While the facts raise a strong suspicion of malice, the Court must be guided by the nature of the allegations themselves.
9. Upon a meticulous review of the FIR and the charge-sheet, this Court finds that the allegations, if taken at their face value and accepted in their entirety, *prima facie* disclose the commission of specific cognizable offences against the person, namely Wrongful Confinement (Section 341 IPC) and Voluntarily Causing Hurt (Section 323 IPC).

10. Where the allegations suggest the underlying commercial dispute escalated into criminal force, the proceedings cannot be summarily dismissed as purely civil.
11. The claims concerning the retaliatory timing, the inordinate delay, and the fundamental existence of *mala fides* are all highly disputed questions of fact. These issues are inextricably intertwined with the merits of the prosecution and require detailed evidentiary assessment.
12. Accepting the Petitioner's claim of malice as conclusive at this juncture would necessitate this Court assuming the role of a Trial Court—weighing evidence and resolving contested facts—an act expressly prohibited in our revisional jurisdiction. The allegation that the proceedings are a malicious counter-blast is a potent defence available to the Petitioner, which must be established during the full rigour of the trial through evidence and cross-examination. The *prima facie* disclosure of cognizable offences, therefore, precludes the summary termination of the proceedings.
13. The objection regarding the registration of the FIR in Singur (Hooghly) for an incident that occurred in Nabadwip (Nadia) is determined to be a procedural anomaly and not a fatal defect. The Code itself, specifically Section 462 Cr.P.C., provides a curative mechanism empowering the Trial Magistrate to transfer the case to the competent jurisdictional Court. A procedural error that is curable cannot be permitted to result in the quashing of substantive criminal charges.
14. The question is therefore, answered in the negative. Where an FIR discloses specific cognizable offences against the person, proceedings cannot be quashed merely on the ground of an underlying commercial dispute or strong

indicia of malice, as the latter issues constitute disputed questions of fact that must be tested as a defence before the Trial Court. Furthermore, a procedural error regarding territorial jurisdiction is curable under Section 462 of the Code and does not necessitate quashing.

- 15.** The Revisional Application is therefore devoid of merit on the prayer for quashing, but warrants mandatory procedural correction.
- 16.** Accordingly, the Revisional Application, C.R.R. No. 2208 of 2017, is dismissed.
- 17.** There shall be no order as to costs.
- 18.** All interim orders, if any, stand vacated.
- 19.** The petition is thus disposed of. The learned Trial Magistrate presently dealing with the case shall, without any undue delay, immediately examine the issue of territorial jurisdiction *suo motu*.
- 20.** The Magistrate shall, upon being satisfied that the cause of action substantially lies within the territorial limits of Nadia, and in strict accordance with Section 462 of the Code, pass necessary orders to transfer the case (Singur P.S. Case No. 26 of 2016/G.R. Case No. 122 of 2016) to the competent Court at Nadia for expeditious trial.
- 21.** The Learned Trial Court shall proceed with the case on its merits, being mindful of the Petitioner's right to raise the issue of *mala fides* and the underlying commercial nature of the dispute as legitimate defences during the course of the trial.
- 22.** The Trial Court Record (TCR) and the Case Diary shall be sent down to the Learned Magistrate forthwith.

- 23.** The Registry shall forward a copy of this Order to the Learned Magistrate for necessary compliance and intimation.
- 24.** All connected applications, if any, stand disposed of.
- 25.** Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Uday Kumar, J.)