

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

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

CRR 2425 of 2017

**Ashoke Kumar Basu
-VS-
State of West Bengal & Anr.**

For the Petitioner : Mr. Sagnik Roy Chowdhury
Mr. Trijit Mitra

For the State : Mr. Irman Ali
Ms. Debjani Sahu

Hearing concluded on : 23.05.2025

Judgment on : 20.06.2025

Uday Kumar, J.-

1. This revisional application, preferred under the inherent powers of this Court as enshrined in Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.), seeks the quashing of criminal proceedings initiated against the petitioner, Mr. Ashoke Kumar Basu. He faces charges under Sections 341 (punishment for wrongful restraint), 323 (punishment for voluntarily causing hurt), and 509 (word, gesture or act intended to insult the modesty of a woman) of the Indian Penal Code, 1860 (IPC). These charges stem from G.R. Case No. 4388 of 2014, which originated from Chitpur Police Station Case No. 453 of 2014, dated December 23, 2014. Additionally, the petitioner challenges the order dated June 30, 2017, by which the Learned Additional Chief Judicial Magistrate,

Sealdah, framed charges against him under the same sections, thereby setting the stage for trial.

2. The criminal proceedings arose from a written complaint filed by the opposite party no. 2, Samar Dev Gupta, the petitioner's next-door neighbour. Mr. Gupta alleged that on December 22, 2014, sometime between 8:00 AM and 8:30 AM, Mr. Basu verbally abused him using "highly offensive language" over a trivial matter. When the complainant's wife, Kasturi Gupta, intervened and protested, the petitioner purportedly used "dirty language" specifically intended to insult her modesty and physically pushed her. As a result, she allegedly fell on the road, sustained injuries, and was subsequently admitted to the Intensive Coronary Care Unit (ICCU) due to her severe condition. The complainant further asserted that the accused was habitual in such verbal abuse and prayed for immediate action. Accordingly, Chitpur Police Station Case No. 453 of 2014 was initiated, and upon investigation, a Charge-Sheet was submitted against Mr. Basu.
3. Mr. Sagnik Roy Chowdhury, Learned Counsel for the petitioner, Mr. Ashoke Kumar Basu, a 72-year-old citizen burdened by various old-age ailments, initiated his arguments by highlighting the very genesis of these criminal proceedings. He asserted that the entire case was a calculated manoeuvre to harass and oppress his client, rather than a genuine pursuit of justice. His submission primarily rested on two pillars: the absence of a *prima facie* case and the abuse of the process of court, driven by private vendetta.
4. Mr. Roy Chowdhury contended that even if the complainant's allegations were taken at face value, they failed to constitute the essential legal

ingredients for the alleged offenses under Sections 341, 323, and 509 IPC, rendering the continuation of proceedings unsustainable. Specifically addressing Section 509 IPC, he argued that vague references to "filthy" or "dirty language" lacked specific utterances or clear intent to insult modesty. For Section 323 IPC, he highlighted inconsistencies regarding the cause of injury (direct push versus fall from a scooter) and the lack of clear intent to cause "hurt." Similarly, concerning Section 341 IPC, Counsel submitted that the record provided no specific act or demonstrable intention to "wrongfully restrain," asserting that a general quarrel does not automatically translate into such an act.

5. Beyond these technical deficiencies, Learned Counsel forcefully argued that the continuation of these proceedings had degenerated into an instrument of harassment and oppression against an elderly individual, representing a clear abuse of the process of the Court, driven by a private vendetta. He underscored that the parties were next-door neighbours, suggesting a pre-existing animosity being settled through a criminal complaint. The complainant's own admission that the initial dispute concerned a "trifle matter" was presented as evidence of a disproportionate and vindictive escalation. The palpable lack of clarity and glaring inconsistencies in the alleged incident details, according to Counsel, pointed unequivocally towards a fabricated or exaggerated version of events. He implored this Court to invoke its inherent powers under Section 482 Cr.P.C., asserting that continuing such a baseless and vexatious proceeding would be an affront to justice and a blatant abuse of legal process, thus warranting its quashing.

6. Conversely, Mr. Irman Ali, the Learned Advocate for the State vigorously opposed the petitioner's application for quashing. Their core argument was firmly rooted in the conviction that the ongoing legal action was legitimate and necessary, grounded in both the clear disclosure of cognizable offenses and meticulous adherence to due process throughout the investigation and pre-trial stages. He contended that the High Court, in exercising its inherent jurisdiction, must refrain from overstepping its bounds to become a trial court, thereby delving into factual disputes or re-appreciating evidence at this preliminary juncture.
7. Mr. Ali asserted that the initial FIR and subsequent investigation unequivocally establish the commission of cognizable offenses, noting that the explicit accusation of using "dirty language" for Section 509 IPC and the detailed account of pushing and injury for Section 323 IPC formed a *prima facie* case. Furthermore, the circumstances of the physical altercation could reasonably imply wrongful restraint under Section 341 IPC. They also emphasized that due process had been scrupulously adhered to at every stage, demonstrating a proper and thoughtful application of judicial mind by the Magistrate before framing charges.
8. A cornerstone of the State's argument was the strictly limited scope of Section 482 Cr.P.C. Mr. Ali asserted that this Court's role is not to re-appreciate evidence or substitute its own findings, and minor discrepancies or claims of "private vendetta" are factual matters for trial. Quashing proceedings at this juncture, he contended, would amount to an unwarranted stifling of a legitimate criminal prosecution, directly contradicting the *Bhajan Lal* guidelines, which emphasize that such

extraordinary powers should be exercised sparingly and only in truly exceptional circumstances.

9. The central point for my determination revolved around "*whether the criminal proceedings against the petitioner warranted quashing under Section 482 Cr.P.C., necessitating an inquiry into both the prima facie constitution of the offenses and the possibility of abuse of process.*"
10. In considering the scope of Section 482 Cr.P.C., I am guided by the seminal pronouncements of the Hon'ble Supreme Court. This inherent power, while vast, is not limitless. As consistently held in a catena of decisions, including *R.P. Kapur v. State of Punjab*, AIR 1960 SC 866, and most notably, *State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335, these powers are to be exercised sparingly, cautiously, and only in truly exceptional cases. The *Bhajan Lal* judgment meticulously laid down illustrative categories where such power may be invoked, such as where the allegations in the FIR, even if taken at their face value, do not disclose the commission of any cognizable offence, or where the allegations are so absurd or inherently improbable that no prudent person could ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
11. Regarding the *prima facie* case in the instant matter, I note the complainant's assertions which, on their face, disclose cognizable offenses under Sections 341, 323, and 509 IPC. While the petitioner highlighted inconsistencies and vagueness, such as the exact nature of the "dirty language" or the precise cause of injury, these are inherently factual disputes. The standard at the stage of quashing is not to ascertain whether the allegations would *surely* lead to a conviction, but

whether they, on their face, constitute an offense. The police investigation and the Magistrate's order framing charges indicate that the preliminary threshold for presuming an offense has been met. As the Hon'ble Supreme Court elucidated in *Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque*, (2005) 1 SCC 122, the High Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint at this stage.

12. As for the assertion of abuse of process and private vendetta, I acknowledge that the *Bhajan Lal* guidelines do permit quashing where a criminal proceeding is manifestly attended with *mala fide* and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance. However, mere animosity between neighbours or a general claim of private vendetta does not automatically negate a *prima facie* case. To succeed on this ground, the petitioner must present concrete and convincing material to demonstrate that the very initiation of the proceedings was a clear abuse of process, not simply that the facts are disputed or could have an alternative interpretation. The argument of harassment is a defence that requires substantiation through evidence during trial, and it is not a ground for quashing unless the allegations are demonstrably false or absurd on their face.

13. Discrepancies, contradictions, or questions pertaining to the ultimate truthfulness of the allegations that intrinsically require an appreciation of evidence are matters solely and unequivocally reserved for the Trial Court to adjudicate. The inherent powers under Section 482 Cr.P.C. are not intended to convert this Court into a trial court or an Appellate Court at a nascent stage of the proceedings. The present case,

despite involving an elderly petitioner and a neighbourhood dispute, does not present the kind of glaring absurdity or inherent improbability that would render the allegations unworthy of judicial scrutiny at trial. The allegations, on their face, outline acts that, if proven, undeniably constitute criminal offenses. To intervene and halt these proceedings now would short-circuit the legal process, potentially causing a miscarriage of justice to the complainant, which would be contrary to the very objective of securing the ends of justice.

14. In view of the foregoing analysis, I find no compelling reason to exercise my extraordinary inherent powers under Section 482 Cr.P.C. The criminal proceedings cannot be characterized as frivolous, vexatious, or an abuse of the process of law simply due to the petitioner's assertions or minor discrepancies in the complaint's initial narration. The allegations disclose cognizable offenses that warrant a trial.

15. In any event, a criminal proceedings should not be quashed under Section 482 Cr.P.C. where the allegations, even if vague or containing minor inconsistencies, *prima facie* disclose cognizable offenses. Factual disputes, claims of *mala fide*, or questions regarding the truthfulness of allegations are matters for evidence and adjudication by the Trial Court. The High Court's inherent powers are to be exercised sparingly and only in truly exceptional circumstances to prevent a clear abuse of process, as defined by established precedents like *Bhajan Lal*, and not to stifle a legitimate prosecution where the allegations, on their face, constitute an offence.

16. Therefore, the revisional application C.R.R. 2425 of 2017, being devoid of merit, is hereby dismissed.

- 17.** The criminal proceedings in G.R. Case No. 4388 of 2014, arising out of Chitpur Police Station Case No. 453 of 2014, dated December 23, 2014, pending before the Learned Additional Chief Judicial Magistrate, Sealdah, shall proceed in accordance with law.
- 18.** The Learned Additional Chief Judicial Magistrate, Sealdah, is directed to proceed expeditiously with the trial, ensuring its conclusion without undue delay, and without being influenced by any observations made herein, which are strictly for the purpose of deciding this revisional application.
- 19.** Any applications related to this matter are disposed of accordingly.
- 20.** Any interim order(s) stand vacated.
- 21.** There is no order as to costs.
- 22.** TCR if any, shall be send down to the Learned Trial Court, at once.
- 23.** Let a copy of this order be forthwith transmitted to the concerned Trial Court for their information and necessary action.
- 24.** Urgent photostat copy of this judgment may be provided to the parties, if applied for, upon compliance with requisite formalities.

(Uday Kumar, J.)