

Form No. J.(2)
Item No. 2
Court No. 237
RANJAN

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

Present:
The Hon'ble Justice Md. Shabbar Rashidi

CRR 3529 of 2025

**Biresh Dutta
-Vs-
State of West Bengal**

For the petitioner : Mr. Partha Chakraborty, Learned Advocate

Heard on : September 02, 2025

Judgment on : September 02, 2025

Md. Shabbar Rashidi, J.

1. The instant revisional application is filed assailing an order dated June 26, 2025 passed by the learned Additional Chief Judicial Magistrate, Chandannagar.
2. Predecessor-in-interest of the petitioner purchased Flats at 'Bandhan Apartment', Mankundu Station Road, Mankundu situated at Ward No. 18 within Chandannagar Municipality.

3. It is alleged that after purchase of such Flats by the predecessor of the petitioner, they have been in possession of such Flats. In the meantime, COVID-19 intervened.
4. Later the petitioner's predecessor applied for mutation; prior to such mutation he died on April 25, 2019. After death of the father of the petitioner i.e. the original purchaser, the petitioner has been possessing the said Flats.
5. Petitioner further submits that on October 22, 2021 the petitioner along with his elder sister went to visit the aforesaid Flats, when they found the Flats to be occupied by some other families, purportedly, on the basis of the sale deed executed in their favour in respect of the Flats in question. According to the petitioner, the vendors of the aforesaid families were not authorized to transfer Flats belonging to the petitioner, again, since it were transferred in favour of the father of the petitioner earlier.
6. The petitioner was also threatened by inhabitants of the aforesaid Flats when the petitioner tried to enter into the said Flats belonging to his father. In such circumstances, the petitioner lodged GDE at Chandannagar Police Station on January 21, 2022 and March 19, 2022. Later at the complaint lodged by the petitioner, a specific case was registered being Chandannagar Police Station Case No. 123/2022 dated May 21, 2022 under Section 420/406 of Indian Penal Code.
7. It is further allegation of the petitioner that during the investigation of such case, the Investigating Authority did not arrest the persons

- in alleged occupation of the Flats in question. They were merely served with a notice under Section 41A of Code of Criminal Procedure, 1973. The alleged deed standing in the name of such persons were also not seized by the Investigating Authority. Upon conclusion of investigation the case ended in Charge-sheet under Section 420/406 of Indian Penal Code against the private opposite party herein.
8. The petitioner filed a petition under Section 173(8) of Cr.P.C. against such Charge-sheet. Such petition was considered by the learned Chief Judicial Magistrate, Chandannagar and was rejected by the impugned order dated June 26, 2025.
 9. It has been submitted on behalf of the learned Advocate for the petitioner that the rejection of the petition under Section 173(8) of Cr. P.C. filed on behalf of the petitioner, by the learned Chief Judicial Magistrate is without jurisdiction and consideration.
 10. It was also contended that the Investigating Officer did not arrest the accused persons in the case nor the alleged deeds of conveyance in respect of the Flats were seized by the Investigating Officer, in course of investigation.
 11. Learned Advocate for the petitioner also submits that the learned Additional Chief Judicial Magistrate also did not consider the criminal antecedent of the private opposite parties and passed the impugned order rejecting the prayer of the petitioner for the further investigation of the case.

12. I have gone through the materials on record as well as in consideration of the submission made on behalf of the petitioner, the petitioner as also considering the impugned order, it transpires that the case under Section 420/406 of Indian Penal Code was initiated at the behest of the present petitioner. The case ended in Charge-sheet under the aforesaid Sections against the private opposite parties. The private opposite parties were served with a notice under Section 41A of Code of Criminal Procedure by the Investigating Agency in course of investigation of the case and thereafter, the Investigating Officer proceeded to submit Charge-Sheet under Section 420/406 of the Indian Penal Code against such persons.
13. The contention, it appears from the submissions made on behalf of the petitioner, is that the private opposite parties were not arrested by the Investigating Officer in course of investigation of the case. The alleged deed standing in the name of the private opposite parties were also not seized by the police authorities during investigation. Beside that there was another allegation that there were several criminal cases pending against the principal accused No. 1 and such fact was not taken into consideration either by the Investigating Officer or by the learned Chief Judicial Magistrate while passing the impugned order.
14. On perusal of the impugned order, it transpires that the learned Additional Chief Judicial Magistrate while passing the impugned order applied his mind and observed that the offence complained of punishable with seven years imprisonment.

15. In such circumstances, it was noted that the Investigating Officer was the authority to decide as to whether arrest of an accused was required or not in connection with the criminal case. In connection with the previous criminal antecedent of the principal accused, the learned Additional Chief Judicial Magistrate noted that mere fact that there can be any case of similar nature pending against the accused persons cannot be treated as a criminal antecedent of the accused. It was specifically noted that the de facto complainant in the present petition did not come up with definite information that the accused persons were convicted earlier in a criminal case.
16. Considering the aforesaid facts and circumstances, the learned Additional Chief Judicial Magistrate by the impugned order, proceeded to reject the petition under Section 173(8) of Cr.P.C. filed on behalf of the petitioner.
17. On perusal of the materials on record, I find no infirmity in the impugned order. The same is well reasoned and the learned Additional Chief Judicial Magistrate was quite justified in rejecting the petition under Section 173(8) of Cr. P.C.
18. In such circumstances, I find no merit in the instant revisional application **CRR 3529 of 2025** stands **disposed of**.
19. Urgent photostat certified copy of this judgment may be supplied to the parties expeditiously, if applied for.

(MD. SHABBAR RASHIDI, J.)

