

IN THE HIGH COURT OF CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Md. Shabbar Rashidi

CRR 3564 of 2025

Vishaal Ghosh & Anr.

Vs.

State of West Bengal & Anr.

For the petitioners : Mr. Sanway Banerjee, Adv.

For the State : Mr. Arindam Sen, Adv.
Mr. Subham Bhakat, Adv.

Heard on : 16.09.2025

Judgment on : 16.09.2025

Md. Shabbar Rashidi, J.:-

1. Affidavit of service filed on behalf of the petitioners is taken on record.
2. This revisional application is directed against an order dated 4th April, 2025 passed the learned Additional Chief Judicial Magistrate, Bidhannagar, North 24-Parganas in G.R. Case No.752 of 2023.
3. By the impugned order, the learned Additional Chief Judicial Magistrate, Bidhannagar rejected the application seeking discharge of the accused persons. It was also held in the impugned order that the accused persons may raise their point at the time of trial. Learned

Magistrate held the application filed on behalf of the petitioner to be premature.

4. At the time of hearing, learned advocate for the petitioners submits that the petitioners are accused in a case under Sections 332/333/353/354/427/34 of IPC, being Bidhannagar North Police Station Case No.116 of 2023 dated 21.07.2023 corresponding to Case No.752 of 2023. Learned advocate for the petitioners further submits that in the petition of complaint, the petitioners were alleged to have assaulted the police officers and restrained such officers in discharge of their duties. Learned advocate for the petitioners submits that the case was investigated by the police personnel of the selfsame police station and the charge sheet was submitted against the petitioners.
5. Biased investigation by the police officers of the selfsame police station cannot be ruled out. Nevertheless, police submitted charge sheet in the case under the aforesaid sections and a cognizance was taken against the petitioners.
6. Learned advocate for the petitioners submits that since the investigation was taken by the police officers of selfsame police station, upon officers of which police station the petitioners alleged to have assaulted, a fair investigation was not done. The petitioners also was not served with the copy of the statement recorded under Section 164 Cr.P.C. as the same was found missing.

7. Learned advocate for the petitioners submits that unless and until copy of such statement is restored in its original file and copy of the original statement recorded under Section 164 Cr.P.C. is supplied to the petitioners, the petitioners are not bound to accept copy of a copy. It is on this ground as also on the ground of bias investigation by the police authorities, the petitioners filed an application under Section 239 of Cr.P.C. seeking their discharge from the criminal case.
8. As noted above, the petitioners are accused in respect of a criminal case on the allegation of assaulting the police personnel as also restraining them in discharge of their official duties. The police officers concerned are from the Bidhannagar North Police Station which investigated the case and submitted the charge sheet against the petitioners.
9. With respect, only because the petitioners are accused in a case registered for assaulting the police personnel both investigated by the selfsame police station cannot be a ground to describe the investigation as biased and faulty. Moreover, from the copy of the order passed in G.R. No.752 of 2023, it transpires that it was noted by the learned Additional Chief Judicial Magistrate, Bidhannagar that the original statement recorded under Section 164 Cr.P.C. was missing from the record. It also notes that the learned Magistrate issued direction for tracing the missing statement recorded under

Section 164 of Cr.P.C. An administrative action was initiated for tracing out the same as also identifying the erring person.

10. Non-supply of copy of vital document which is not found in the original record can also not be a ground for discharge of the accused from the criminal case.
11. The case was investigated and ended in a charge sheet against the petitioners. It is for the prosecution to take steps to trace out and prove the alleged missing document in accordance with law. If the prosecution gets such documents admitted in evidence, benefit would surely go to the petitioners who are accused in the said criminal case.
12. In such circumstances, as the case made out in the petition, I find no reason to quash the criminal proceedings of G.R. No.752 of 2023 pending before the learned Additional Chief Judicial Magistrate,, Bidhannagar.
13. Accordingly, CRR 3564 of 2025 is dismissed.
14. Stay order granted earlier by the order dated 3rd September, 2025 stands vacated.
15. Urgent photostat certified copy of this judgment, if applied for, be given to the parties upon compliance of all necessary formalities.