IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 3650 of 2022

Tata Chemicals Ltd. & Ors.

Vs

Amit Das & Anr.

For the Petitioners	:	Mr. Milon Mukherjee, Sr. Adv., Mr. Biswajit Manna.
For the Proforma O.P. No. 2	:	Mr. Sandipan Ganguly, Sr. Adv., Mr. Somopriyo Chowdhury, Mr. Arunabha Deb, Ms. Ashika Daga, Mr. Matri Prasad Das, Ms. Urrvi Chawla.
For the O.P. No. 2	:	Mr. Shiv Chandra Prasad.
Hearing concluded on	:	20.08.2025
Judgment on	:	08.09.2025

Shampa Dutt (Paul), J.:

1. The criminal revision has been preferred praying for quashing of the proceedings in C.R.Case No.6701 of 2017, pending before the Learned Additional Chief Judicial Magistrate, Haldia, Purba Midnapore under Sections 14(1)/14A/14AA/14(2a) of the Employees Provident Fund &

Miscellaneous Provisions Act read with Para 76D of the Employees Provident Fund Scheme for violation of Appendix A below Para 27AA read with Para 72(5) of the EPF Scheme and Para 38 of the Employee's Pension Scheme 95.

2. The petitioners case is that C.R.Case No.6701 of 2017 was initiated on the basis of a petition of complaint filed by the opposite party before the Court of the Learned Additional Chief Judicial Magistrate, Haldia inter alia alleging commission of offences punishable under Sections 14(1)/14A/14AA/14(2a) of the Employees Provident Fund & Miscellaneous Provisions Act. The specific allegations against the petitioner in the petition of complaint before the Trial Court are as follows:-

> *"……….That but after receiving (illegible) representation from Mr.Manish Dubey ex-employee for PF Claim before the authority concerned of EPFO, several opportunities were offered to the above referred accused establishment and in respect of that the Enforcement Officer of the department appointed U/s 13 of EPF Act being competent authority has visited the aforesaid accused establishment on several dates lastly on 06/04/2017 and met with the management available and has given opportunities for settlement of the ex-employees' PF claim. But the aforementioned accused establishment failed to satisfy the authority and being an exempted establishment has committed an offence as the sections the herein above stated.*
>
> *That, in view of the facts being aggrieved by the ex-employee of the exempted establishment and considering his grievance and the scrutinizing all the corresponding notices, letters, report of E.O. Sport Memo of E.O. the authority of Employees' Provident Fund Organization being highly satisfied enough has sanctioned to start the case against the aforementioned i.e. M/s TATA Chemicals Ltd. & others vide*

> *its sanction order No. R-EX/WB/34930/CA/CC-VI/dated 01/08/2017 and in with the Area Enforcement Officer Mr. Amit Das is hereby directed for filling the complaints in appropriate court…….”*

3. In the petition of complaint, it has been further stated in paragraph 5, that claims of the four ex-employees were also settled for four pension claims, which was settled by the complainant office. In course of hearing, the Learned Senior Counsel for the petitioner has brought the notice of the Court to the document at page-21 of the revisional application (Annexure‘P-2’) which has the name of the members whose provident fund dues were settled in full, along with interest.

4. It is further submitted that the said list does not have the name of Manish Dubey containing details of settlements. It is thus, submitted that the opposite party member, the erstwhile company being the proforma opposite party has already settled the dues of the said Manish Dubey and the same is substantiated by the copies of the benefit settlement statement, being Annexure-‘P-5’ to the revisional application.

5. Considering the said submissions of the Learned Senior Counsel, a report was called for through the Learned Counsel representing the E.P.F. Authority.

6. The report dated 23.07.2025 is follows:-

> *“Regarding the settlement of the PF claim,* ***the establishment has claimed that M/s Hindustan Unilever Ltd. on 25.4.2017 cleared the dues of Manish Dubey by transferring an amount of Rs. 95,262/- to the account of Manish Dubey*** *which cannot be verified at this end since it was an exempted*

establishment and PF account was being maintained by the respective Trust."

7. A further report was called for by this Court asking to clarify, as to whether the dues of Manish Dubey was paid by the erstwhile Company, Hindustan Unilever Limited, the proforma opposite party herein.

8. It has now been duly stated that the proforma opposite party herein, Hindustan Unilever Limited who has kept silent throughout the proceedings causing unnecessary harassment to the petitioner herein in spite of having the relevant documents in their custody did not cooperate with the Investigating Agency nor with the Court, when the first report dated 23.07.2025 was filed. The only statement made was that they be expunged from the case, not being a necessary party.

9. The learned Counsel for the EPF/respondent has placed an intimation dated 18th August, 2025, written by the proforma opposite party to the Assistant Provident Fund Commissioner, Howrah, wherein, in response to a letter dated 29th July, 2025 issued by the Assistant Provident Fund Commissioner, Howrah, the details provided are as follows:-

"a. Name of Member: Shri Manish Dubey
b. PF Code: 005999
c. Date of Settlement: April 26, 2017
d. Amount Paid: INR 95,261/- (Rupees Ninety-Five Thousand Two Hundred Sixty-One only)
e. Mode of Payment: Bank Transfer
f. Transaction No.: 170425A38GN00005
g. Transaction Date: April 25, 2017

h. Bank: Deutsche Bank (IFSC DEUT0784BBY) to Axis Bank (IFSC UTIB0000139]

Yours faithfully,

For HINDUSTAN UNILEVER LIMITED
Sd/-
Authorised Signatory"

10. It appears therein that the dues of Mr. Manish Dubey were settled on 26th April, 2017. The documents at Annexure'P-5' to the criminal revisional application supports the said statement. **The criminal case in the present was initiated on 25.09.2017, that is five (5) months after the dues of Manish Dubey was already settled by the proforma defendant herein and as such there is clearly no prima facie case in respect of the offences alleged against the petitioners in the present case.**

11. It is clear that the petition of complaint was registered as the petitioner herein, not being in possession of any information as to the dues of Manish Dubey, could not answer the queries of the Enforcement Officer/Complainant. The proforma/defendant herein, maintained silence and did not cooperate with the Enforcement Officer, when all along documents were available with them and they did not provide the said information to the Enforcement Officer and if done, would not have led to the registering of the criminal case. The petitioner has been facing the criminal proceedings, since 2017 for non-cooperation of the proforma /opposite party herein.

12. Accordingly, considering the said facts, there being no prima facie case against the petitioner herein, the proceedings in CRR No.3650 of 2022 is hereby quashed in respect of all the petitioners. A cost of Rs.50,000/- is imposed on the proforma/opposite party Hindustan Unilever Limited herein, for its conduct as noted above. The cost be paid to the State Legal Service Authority, West Bengal.

13. **Criminal Revision No.3650 of 2022 is allowed.**

14. Applications, if any, connected thereto stand disposed of consequently.

15. Interim order, if any, stands vacated.

16. Let a copy of this judgment be sent to the State Legal Service Authority, West Bengal.

17. Photostat certified copy of this Judgment, if applied for, be given to the parties on priority basis upon compliance of all formalities.

(Shampa Dutt (Paul), J.)