

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
Appellate Side**

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. 3857 of 2024

Panchananda Jana

Versus

The State of West Bengal and Anr.

For the Petitioner : Mr. Anjan Bhattacharya, Adv.
Ms. Anita Shaw, Adv.

For the State : Mr. Debasish Roy, Ld. PP
Mr. Arijit Ganguly, Adv.
Mr. Karan Bapuli, Adv.

Heard on : 01.08.2025

Judgment on : 20.08.2025

Ajay Kumar Gupta, J:

1. The petitioner being the accused preferred this Criminal Revisional application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973 (in short 'CrPC') corresponding to Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (in short 'BNSS') seeking quashing of the impugned Charge Sheet being No. 191/2024 dated 21.05.2024 submitted in connection with Mahishadal P.S. Case No. 130/2024 dated 22.03.2024 under Sections 341/323/506 of the Indian Penal Code, 1860 and Sections 10/12 of the POCSO Act and Section 75 of the Juvenile Justice Act, pending before the Court of Learned Judge, Special Court, POCSO, Haldia at Purba Medinipur.

2. The factual matrix of the instant case is that mother of the victim girl lodged a written complaint to the Officer-in-Charge, Mahishadal Police Station accusing to the effect that her daughter aged about 13 years (herein after referred to as 'victim girl') studying in class VI in xxxxxxxx School. The headmaster of the said school on the pretext of seeing the neck chain, inserted his hand inside her school dress, with intent to outrage her modesty and/or committed aggravated sexual assault and/or sexual harassment. It was further alleged that on the previous day i.e. on 21.03.2024, the headmaster assaulted her and other students, when they went to report that

there was no fan in the class room. In addition, it was further alleged that the headmaster has a bad character, similar types of incident happened earlier with other students. When the parents of the students went to inquire about such incident, he threatens them with dire consequence that nobody can do anything against him, which resulted in registration of an FIR being Mahishadal P.S. Case No. 130/2024 dated 22.03.2024 under Sections 341/323/506 of the Indian Penal Code, 1860 and Sections 10/12 of the POCSO Act as well as Section 75 of the Juvenile Justice Act and initiated investigation.

3. The Petitioner was arrested and subsequently enlarged on bail. He denies the allegations and contended that he is innocent and has been falsely implicated into this case asserting that no such incident ever happened. However, after culmination of the investigation, a Charge Sheet being No. 191/2024 dated 21.05.2024 under Sections 341/323/506 of the Indian Penal Code, 1860 and Sections 10/12 of the POCSO Act as well as Section 75 of the Juvenile Justice Act has been submitted by the investigation officer is under the subject matter of challenge as it was filed mechanically and without proper investigation or scanning of the oral and documentary evidence of the witnesses, collected in course of investigation.

4. According to the Petitioner, the whole case is based on false, fabricated and concocted story. If it would have been properly scanned with the oral and documentary evidence of witnesses, the result would have been different and charge sheet would not have been submitted against the petitioner, as such, he preferred this revisional application seeking quashing of the charge sheet and proceedings thereof.

SUBMISSION ON BEHALF OF THE PETITIONER:

5. Learned counsel, Mr. Bhattacharya, appearing on behalf of the petitioner vociferously argued and further submitted that the present case is based on false, fabricated, concocted and only to canvass ulterior motive of the complainant to defame the petitioner, who was discharging his duties as headmaster of a school since 2019. The allegation is out and out false. The allegations are not supported by any reliable evidence. The FIR is not corroborated or supported by the victim girl herself. Incident shifted from the venue of running class room to headmaster's office room in presence of other students on next date although complaint was different regarding place and date of incident. Even, other witnesses narrated about the incident differently, no specific date, time and manner of incident narrated to justify the incident happened with the victim girl. No

reliable evidence transpired from the charge sheet about his previous bad character or conducts as alleged by the witnesses.

6. It was further added by the learned counsel that apart from her friends, no other students had been examined by the Investigating Officer though the alleged incident occurred in the class room of the school. The allegations of committing the said offence with a minor girl inside the running class room in front of other students are unbelievable. No prudent man could even imagine of such incident be happened in the running class room in presence of other students. If such incident really had been happened then real truth would have bound to come from the statements of other students, who were very much present in the class room or the students who accompany with the victim girl to the headmaster's office room but, no other independent students have been examined though they were vital witnesses to unearth the actual truth. There are vital discrepancies and inconsistencies amongst the witnesses.

7. Under such vital discrepancies and inconsistencies of the statements of the complainant, victim girl and other witnesses touch the root of the allegation. If such proceedings, based on patently absurd and inherently improbable in presence of other students in the broad day light either in the running class room or headmaster's

office room, would continue then it would be gross abuse of process of law. If proceeding based on such baseless charge sheet allowed to be continued, the petitioner would prejudice and suffer irreparable loss and injury. It would damage his reputation and career in future. It would also adversely impact on other students and institution. Therefore, Court should be very careful and cautious while dealing with such types of cases.

8. Finally, learned counsel candidly submitted that though the allegation, is serious in nature, falls under the POCSO Act, but Court while exercising inherent power under Section 482 of CrPC should look into the entire facts narrated in the FIR and evidence collected in the course of investigation very carefully and cautiously to prevent gross abuse of process of law and also secure the ends of justice. Petitioner was arrested and he spent 43 days in judicial custody without any fault and his life became miserable in the society due to false implication. Therefore, this Court can exercise inherent power under Section 482 of the CrPC to prevent the abuse of process of law and to secure the ends of justice.

9. Learned counsel has also placed reliance of a decision in the case of **Ganesh Orang Vs. State of West Bengal & Anr.**¹ to support

¹ CRA 248 of 2019 with CRAN 2 of 2021 (Old CRAN 2848 of 2019)

his contention that place, time and circumstances under which alleged offence was committed by the petitioner are the essential parameters to be required to establish in order to prove even the prima facie prosecution case and, in the instant case, vital contradictions and inconsistencies are appearing on the face of records and, in such a situation, the Investigating Officer ought not to have been filed charge sheet against the petitioner. Only on such ground, the Revisional application can be allowed and charge sheet should be quashed

10. On the other hand, none appeared on behalf of the opposite party no. 2/victim girl despite service of notice. In addition, this Court also directed the State to serve the notice to the opposite party no. 2 through concerned jurisdictional Police Station but none appeared on her behalf even after receiving of notice.

SUBMISSION ON BEHALF OF THE STATE:

11. Learned counsels appearing on behalf of the State produced the case diary and vehemently opposed the prayer of the petitioner and further submitted that during investigation, statements of the victim, her friends and other teachers of the school were recorded under Section 161 of CrPC. Statement of the victim girl was also recorded under Section 164 of CrPC. Statement of two other students

were also recorded under Section 164 of the CrPC. They have established the prima facie case against the offence committed by the petitioner in the school premises. Though, there are some inconsistencies but this Court cannot embark upon such inconsistencies at this stage. The petitioner must have to face trial and opportunity need to be given to the victim girl and vital eye witnesses to uncover the real truth otherwise faith of public on the judicial process will be undermined. Finally, learned counsel prays for dismissal of the application.

DISCUSSIONS, ANALYSIS AND CONCLUSION OF THIS COURT:

12. Considering the arguments advanced and submissions made on behalf of the parties and upon perusal of materials available on records, core legal issues arise for determination are as follows: -

- 1. Whether contradictions or inconsistencies in the statements of the witnesses recorded in course of investigation can be a ground for quashing of the charge sheet?*
- 2. Whether incomplete or mechanical or perfunctory investigation warrants quashing of the Charge Sheet in exercising inherent power under Section 482 of the CrPC?*

3. Whether prima facie material exists in the charge sheet to allow to proceed with the case falls under POCSO Act?

13. All the issues are taken up together for the purpose of the fair and effective disposal of this case for the sake of convenience and to avoid repetition. Upon meticulously perusal of the case diary particularly the statements recorded under Sections 161 and 164 of the CrPC, this Court finds there are vital contradictions, inconsistencies and dichotomies between the FIR and statements of the witnesses recorded under Section 161 and 164 of the CrPC. The comparative chart of the Statements of the witnesses is given in details as under: -

Point of Comparison	FIR (Mother's Complaint)	Victim and Other witnesses' statements under Section 161 of CrPC	Victim's Statement under Section 164 of CrPC	Witnesses' statements under Section 164 of CrPC	Contradictions /observations
Manner of commission of the offence	I) On 21.03.2024, the victim girl along with her classmates went to the headmaster's office to	I) She stated without mentioning any particular date that she and her classmates went to the headmaster's office to report as	I) She along with other students went to the headmaster's office to report as the fan was not working without	I) Victim's friend (Class VI) mentions incident happened in classroom but does	I) There exist clear contradictions regarding the date and place of occurrence of the offence. II) No specific

	report as there was no fan in the classroom, but, the headmaster did not listen and start assaulting her daughter as well as her classmates. II) On 22.03.2024, she alleged on the pretext of seeing the neck chain, the headmaster inserted his hand inside the victim's school dress in the running class. III) Parents of the students went to the headmaster's office to inquire about	the fan was not working but he did not listen, rebuke and drive out them. II) Again on 21.03.2024, she along with her classmates went to report the same issue of fan, but the headmaster did not listen. Rather, on pretext of seeing the neck chain he inserted his hand into the victim's school dress. III) Two teachers of the same school stated about the aforesaid facts without indicating any particular date and place on the basis of hearsay evidence without naming who informed them.	mentioning any specific date but, he did not listen and ask to go to the class. II) Again on the next day, she along with other students went to the headmaster's office to report about the same issue but he assaulted her as well as other students without indicating the date and time. III) On the same date, on pretext of seeking the neck chain, the headmaster inserted his hand inside the school dress of the	not specify date or time. II) Student of Class IX mentions incident happened in classroom based on hearsay but without mentioning any date or time.	time has been specified by the witnesses. III) Complainant said there was no fan whereas others said fan was not working.
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	the incident, he threatened with dire consequence and said that nobody can do anything against him.		victim girl.		
Place of Occurrence	Inside classroom during running class in presence of students.	Headmaster's office room in presence of students.	Headmaster's office room in presence of students.	I) Victim's friend said in the classroom. II) Student of Class IX said in the classroom based on hearsay.	Contradictions between classroom (FIR/ witnesses) and office room by victim girl.
Presence of Witnesses	Other students were present.	Other students were present. Two teachers stated that they only heard about the incident from others; without indicating names and the actual place of occurrence.	No clarity.		I) Hearsay evidence of the teachers is not admissible. II) No independent students examined to corroborate the incident.

Assault	Headmaster assaulted the victim girl and other students when they complained about the fan on 21.03.2024.	Victim girl stated that the headmaster did not listen and send them back to class by threatening them.	In her 164 statement, the victim girl said that on the first day the headmaster sent them back and on the next day he beaten up some students and inserted his hand into her school dress.	I) The Class friend mentioned that on the same day, the headmaster beaten a boy when he went outside and returned to class. II) The Class IX witness stated the headmaster once beaten her for wearing different coloured leggings without mentioning date, time and place. III) She said nothing about the alleged assault of other students	Allegations of assault are inconsistent and uncorroborated; II) No medical evidence supports injuries. III) The victim girl herself refused to undergo medical examination. There is no corroboration about the assault to the victim girl and/or other students while they went to the headmaster's office room to report the issue of fan.
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14. From the materials available on the case diary, there exist material contradictions from the statements of the victim girl and her mother. Actual incidents are not supported by any independent witnesses including school teachers or students despite the alleged incident occurred in running class room of a School in the broad day light. The victim girl also refused medical examination. Furthermore, no medical report corroborated allegation of physical assault to support the offence. Statement of one another student of the said school was also recorded under Section 164 of the CrPC but the narration of incident is wholly unmatched.

15. Another student of class IX of the same school narrated in her statement recorded in 164 Statement of the CrPC about some other incident without mentioning date and time of the incident, which is not any way connected with the present incident. She further stated about the incident of the victim girl on the basis of hearsay evidence without naming the person, who informed her.

16. Overall consideration of evidence collected in course of investigation found to be absurd and not inconsistencies in respect of time, place and manner of offence narrated in the FIR and statements of the witnesses including victim girl and others. Complainant stated

there was no fan in the class room and her daughter as well as other students stated the fan was not working. Victim girl stated headmaster assaulted her and other students, when they went to report to the headmaster in office room about the issue of fan but same is not corroborated by other students. The statements recorded under Sections 161 and 164 of CrPC found altogether two different stories regarding place of occurrence and wholly inconsistencies with regard to the place of incident and no specific time is mentioned. This Court is conscious that Statements recorded under Section 161 CrPC are not substantive evidence and cannot form the sole basis for quashing a criminal proceeding unless such contradictions appear vital with FIR and Section 164 Statements and go to the root of the prosecution case and render it manifestly untenable. Therefore, in the present case, the internal inconsistencies and the Investigating Officer's failure to examine other independent witnesses particularly who were present in the class room and/or office room raise a serious question regarding the genuineness of the case and the legality of the charge sheet.

17. The POCSO Act, 2012 is a special legislation enacted to protect children from sexual offences by ensuring child-friendly procedures during investigation and trial, and imposing stringent punishments for perpetrators. While the statute is protective in

nature, it does not presume guilt and the principles of fair trial and natural justice remain fully applicable to an accused person. Courts are also required to adopt a cautious but balanced approach, especially when the facts present significant contradictions, procedural irregularities, or non-compliance with statutory safeguards.

18. In the case of *State of Haryana v. Bhajan Lal*², the Hon'ble Supreme Court held that where the allegations in the FIR or the supporting material do not disclose the commission of any offence or where the proceedings are manifestly attended with mala fide intention, the High Court can exercise its inherent powers under Section 482 of CrPC to prevent abuse of the process of law. In the present case, the material on record, even if taken at face value, fails to disclose a prima facie case for the offences under Sections 10 and 12 of the POCSO Act or Section 75 of the JJ Act. The mechanically filing of the charge sheet without sufficient material appears to be not sufficient to hold petitioner has committed such offence even prima facie, therefore, it is an abuse of the legal process and continuation of such proceedings would result in undue harassment and oppression to the accused. The Hon'ble Supreme Court finds it just and proper to invoke its inherent powers under Section 482 of CrPC.

² [(1992) Supp (1) SCC 335],

19. The Hon'ble Supreme Court in the decision in **Vineet Kumar & Ors. Vs. State of U.P. & Anr.**³ held in paragraph 39 thereof that inherent power given to the High Court under Section 482 of Cr.P.C. is with the purpose and object of advancement of justice. In case solemn process of Court is sought to be abused by a person with some oblique motive, the Court has to thwart the attempt at the very threshold. The Court cannot permit a prosecution to go on if the case falls in one of the Categories as illustratively enumerated in **State of Haryana v. Bhajan Lal**⁴. Judicial process is a solemn proceeding which cannot be allowed to be converted into an instrument of operation or harassment. When there are materials to indicate that a criminal proceeding which cannot be allowed to be converted into an instrument of operation or harassment. When there is material to indicate that a criminal proceeding is manifestly attended with mala fide and proceeding is maliciously instituted with an ulterior motive, the High Court will not hesitate in exercise of its jurisdiction under Section 482 of Cr.P.C. to quash the proceeding under Category 7 as enumerated in **State of Haryana v. Bhajan Lal (supra)**, which is to the following effect:

“(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is

³ 2017 (13) SCC 369: AIR 2017 SC 1884

⁴ AIR 1960 SC 866

maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

20. Similarly, in another decision in ***Mahmood Ali v. State of U.P.***⁵, the Apex Court while considering the power under Section 482 of Cr.P.C, in paragraph 12 thereof held that whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure or extraordinary jurisdiction under Article 226 of the Constitution of India to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances, the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complainant are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be

⁵ [2023 KHC 7029 : 2023 KHC OnLine 7029 : 2023 LiveLaw (SC) 613 : 2023 KLT OnLine 175 : AIR 2023 SC 3709 : AIR OnLine 2023 SC 602 : 2023 CriLJ 3896]

just enough for the Court to look into the averments made in the FIR/complainant alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the Cr.P.C. or Article 226 of the Constitution of India need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation.

(Emphasis supplied)

21. Therefore, the legal position is clear that when the petitioner seeks quashing of charge sheet or criminal proceedings can be resorted to when the prosecution materials do not constitute materials to attract the offence alleged to be committed. Similarly, the Court owes a duty to look into the other attending circumstances, over and above the averments to see whether there are materials to indicate that a criminal proceeding is manifestly attended with mala

fide and proceeding instituted maliciously with ulterior motives. Once the said fact is established, the same is a good reason to quash the charge sheet and criminal proceedings thereof.

22. The Hon'ble Himachal Pradesh High Court was also cognizant of the seriousness of offences under the POCSO Act and the imperative of protecting child victims. However, it is equally essential to guard against the misuse of penal provisions for extraneous motives. As observed in ***Sanjay Sharma (supra)***⁶, Courts must intervene where prosecution is manifestly vexatious or premised on insufficient material, to prevent miscarriage of justice.

23. In the case of ***Rajesh Sharma v. State of U.P.***⁷, while dealing with similarly sensitive provisions, the Hon'ble Supreme Court cautioned against the mechanical prosecution of accused persons emphasising the need for judicial scrutiny to prevent harassment. Although the case arose under Section 498A of IPC, the underlying principle against mechanical and mala fide prosecution is equally relevant in the present context.

24. In the case of ***Sanjay Sharma v. State of Himachal Pradesh***, the Hon'ble Himachal Pradesh High Court reiterated as follows:

⁶ [(2022) SCC Online HP 3327]

⁷ [(2017) SCC OnLine SC 821]

“The inherent powers of the High Court under Section 482 CrPC may be invoked in cases where the allegations are ex facie absurd or where continuation of proceedings would result in injustice or oppression to the accused. The Court observed that while such power must be exercised with circumspection, it cannot be withheld in cases where the prosecution amounts to a misuse of judicial process”.

(Emphasis supplied)

25. Similarly, in ***Pankaj Kumar v. State of Maharashtra***⁸, the Hon’ble Supreme Court held thereof as under:

“The seriousness of the offence should not deter the Court from quashing the proceedings if the material on record fails to disclose a prima facie case.”

These principles fully apply to the facts of the present case in hand, where the allegations are inconsistent, unsupported and do not make out the basic ingredients of the alleged offences. This Court also fails to repose confidence upon the evidence collected in course of investigation with regard to the alleged offence.

26. In the case in hand, at the cost of repetition this Court finds the vital contradictions and inconsistencies with regard to the

⁸ [(2008) 16 SCC 117]

allegations in the FIR and the statements of the victim girl. Other statements recorded under Sections 161 and 164 of CrPC are also not found any consistency rather there is vital dichotomy, shaky and weak piece of evidence. There is no specific time, date and place in connection with the alleged offence, some times during running class room and, on the other hand, in Headmaster's office. Several students were available in the school premises but none of independent witnesses called for as witnesses to corroborate the actual incident.

27. Two teachers of the same school were examined by the investigating officer. They have narrated nothing about the actual incidents as alleged by the complainant though they were very much present in the school premises. They have heard about the incident from others without naming any one from whom they had heard about the incident, therefore, their hearsay evidences are not admissible in law.

28. The tendency to implicate in the case falls under the stringent POCSO Act is also not uncommon now a day. Even after conclusion of criminal trial, it is often difficult to ascertain the real truth and ultimately, maximum cases come to end with acquittal and/or not proved. The Courts have to be extremely careful and

cautious while dealing with these complaints and material collected during investigation and should take pragmatic realities into considerations while handling criminal case based on false allegations.

29. This Court finally finds the following vital facts and circumstances: -

- a) There are material contradictions and dichotomies amongst the victim's statement, her mother's version, other witnesses and the FIR;
- b) No date, time, place and manner of incident matched with the evidence of the witnesses;
- c) No independent students witnesses from the class (VI) have been examined;
- d) No seizure has been made like neck chain, attendance register of the school, injury report etc.;
- e) The procedural mandates of POCSO Act—such as child-friendly protocols and presence of a support person—have not been followed;
- f) The charge sheet appears mechanically filed without considering or assessing the evidence of the witnesses

collected in course of investigation and further failed to establish the prima facie case of the offence as alleged.

30. After careful scrutiny of the materials available in the case diary, this Court does not find any sufficient materials to establish at least prima facie case against the present petitioner, who was headmaster of a school. Even if, for the sake of argument, this proceeding is allowed to be continued, the conviction of petitioner appears bleak and remote. To secure the ends of justice, the Charge Sheet deserved to be quashed under the inherent power granted under Section 482 of the CrPC insofar as the petitioner is concerned.

31. In the light of above discussion and analysis, this Court finally comes to a conclusion that the object of POCSO Act is to protect children, not to prosecute innocents. Law must not be weaponised. The judicial conscience must be satisfied that sufficient material exists to put a person on trial, especially under a stringent statute. In its absence, quashing is not only permissible but necessary.

32. In the back drop of aforesaid reasons, **CRR 3857 of 2024** is, thus, **allowed**. Consequently, the Charge Sheet being No. 191/2024 dated 21.05.2024 submitted by the Mahishadal Police Station arising out of Mahishadal P.S. Case No. 130/2024 dated

22.03.2024 under Sections 341/323/506 of the Indian Penal Code, 1860 and Sections 10/12 of the POCSO Act as well as Section 75 of the Juvenile Justice Act pending before the Court of Learned Judge, Special Court, POCSO, Haldia at Purba Medinipur is hereby quashed.

33. Connected applications, if any, are also, thus, disposed of.

34. Case Diary, if any, is to be returned to the learned Advocate for the State.

35. Let a copy of this Judgment be sent to the Learned Court below for information.

36. Interim order, if any, stands vacated.

37. Parties shall act on the server copies of this Judgment uploaded on the website of this Court.

38. Urgent photostat certified copy of this Judgment, if applied for, is to be given as expeditiously to the parties on compliance of all formalities.

(Ajay Kumar Gupta, J)