

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. 4411 of 2023

With

CRAN 2 of 2024 & CRAN 6 of 2025

Masud Reja @ Masud Reza

Versus

The State of West Bengal & Another

For the Petitioner : Mr. Mayukh Mukherjee, Adv.

For the State : Mr. Debashis Roy, Ld. PP
Ms. Faria Hossain, Adv.
Ms. Mamata Jana, Adv.

Heard on : 18.07.2025

Judgment on : 30.07.2025

Ajay Kumar Gupta, J:

1. The petitioner preferred this Criminal Revisional application under Section 482 of the Code of Criminal Procedure, 1973 (in short 'CrPC') seeking quashing of the investigation initiated in connection with Kharagpur GRPS Case No. 61 of 2022 dated 15.09.2022 under Sections 419/420/120B, adding Sections 417/467/468/471/472/474/475 of the Indian Penal Code, 1860 now pending before the Court of the Learned Additional Chief Judicial Magistrate, Kharagpur, Paschim Medinipur.

2. The factual matrix of this case, leading to the filing of this application, is as under: -

2a. A suo-moto case was registered being Kharagpur GRPS Case No. 61 of 2022 dated 15.09.2022 under Sections 419/420/120B of the Indian Penal Code, 1860 on the basis of a written complaint lodged by the opposite party no. 2 – Bhagwan Singh, Sub-Inspector of RPF Post, Kharagpur alleging, *inter alia*, that one individual was detained by the complainant for possessing unaccounted money amounting to approximately Rs. 2,00,000/- allegedly for the purposes of recruitment of the candidates in the railways. Subsequently, Sections 417/467/468/471/472/474/475 of the Indian Penal Code, 1860 were added during investigation.

2b. The present petitioner received two notices under Section 160 of CrPC on 29.11.2022 and 26.12.2022 from the Investigating Officer, requiring his appearance for examination in connection with the aforesaid case. At the same time, it came to the knowledge of the petitioner that a Look Out Circular had been issued against him in connection with the same case, in response, the petitioner filed an application for Anticipatory Bail before the Hon'ble High Court at Calcutta vide CRM (A) 216 of 2023. However, the said application was rejected by the Division Bench of this Court vide order dated 17.01.2023.

2c. Being aggrieved by and dissatisfied with the said rejection order, the petitioner approached before the Hon'ble Supreme Court, where he was granted interim protection from arrest on 25.04.2023. However, the Hon'ble Supreme Court eventually declined to interfere with the rejection order of anticipatory bail by the Hon'ble Calcutta High Court.

2d. On 25.05.2023, a notice under Section 41A of the CrPC was issued to the petitioner and the same was duly complied with on 27.05.2023. The Investigating Officer also summoned the petitioner for providing voice sample for forensic examination of audio conversation allegedly held between the petitioner and co-accused,

Sahid Mallick on 23.06.2023, 01.07.2023 and 22.07.2023, all of which were duly complied with by the petitioner.

2e. On 19.08.2023, another notice under Section 91 of CrPC was issued to the petitioner directing him to hand over the mobile phone set. The Investigating Officer seized the mobile phone set as well as some other documents from him vide Seizure List dated 15.09.2023. However, as per the petitioner, petitioner's name is neither reflected in the FIR nor in the written complaint filed by the Sub-Inspector of RPF Post, Kharagpur. The petitioner asserts that he has no connection with the case or the allegations made therein. The petitioner also stated that he does not know the accused person, whose name has been mentioned in the FIR. Nevertheless, he was harassed by the Investigating Officer from time to time by issuing notices under Sections 160, 91 and 41A of the CrPC without disclosing his actual status in the case. Hence, this Criminal Revisional application.

SUBMISSION ON BEHALF OF THE PETITIONER:

3. Mr. Mukherjee, learned counsel appearing on behalf of the petitioner vehemently advanced arguments and submitted that in one hand, the petitioner was treated as a witness and issued notice under Section 160 of CrPC and, on the other hand, he has been treated as

an accused and issued a notice under Section 41A of the CrPC. Similarly, he was also issued notice under Section 91 of CrPC for the production of mobile phone and other documents. Therefore, the actions taken by the Investigating Officer against the present petitioner are palpably illegal and violative of Article 21 of the Constitution of India, which grants every citizen of India for right to life and liberty. Therefore, the investigation against the present petitioner is liable to be quashed.

3a. It was further submitted that in a similar matter, a writ petition was filed by one Rahul Chanda being WPA No. 24148 of 2023 who was also implicated in the present case. In the said case, a notice under Section 160 of the CrPC was issued to him but later it was set aside vide order dated 9th October, 2023 by the Co-ordinate Bench of this Hon'ble High Court. The petitioner is in no way connected or nexus or involved with the instant case. Relying on the precedent set in WPA 24148 of 2023, the Co-ordinate Bench of this Court was pleased to grant interim protection to the petitioner by restraining the Investigating Officer from taking any coercive steps against him and the said interim protection has been extended from time to time.

3b. The learned counsel submitted that the actions of the Investigating Officer are not legally tenable and are not permissible in

law, thereby warranting the quashing of the entire investigation insofar as the petitioner is concerned.

SUBMISSION ON BEHALF OF THE STATE:

4. Mr. Roy, learned Public Prosecutor representing the State vehemently opposed the prayer of the learned counsel appearing on behalf of the petitioner for quashing of the investigation and further submitted that initially a notice was issued under Section 160 of the CrPC upon the petitioner as a witness. But, in course of investigation, some materials reveal to the effect that he was also involved in the alleged offence along with the other accused persons. Therefore, he has been arraigned as an accused in the instant case and when he came to know about the said facts, he filed an application for anticipatory bail before this Hon'ble High Court. His application for anticipatory bail was rejected after hearing the parties by the then Division Bench of this Court. Subsequently, it was travelled to the Hon'ble Supreme Court by way of Special Leave Petition.

4a. During hearing, the Hon'ble Supreme Court initially granted interim protection to the petitioner by directing that the petitioner shall not be arrested in connection with Kharagpur GRPS Case No. 61 of 2022 dated 15.09.2022 under Sections 419/420/120B of IPC

subject to deposit of Rs. 1 Lakh and the petitioner would join and cooperate with the investigation vide order dated 25.04.2023.

4b. It was further submitted that subsequently vide order dated 11.08.2023, the Hon'ble Supreme Court directed the petitioner Masud Reja @ Masud Reza to surrender and hand over his mobile phone set which he had been using for the last three years as well as the statement of the bank account (s) and account number to the Investigating Officer within a period of 10 days from the date of the order.

4c. Finally, the Hon'ble Supreme Court vide order dated 20.09.2023 dismissed the Special Leave Petition filed by the petitioner challenging the rejection order dated 17.01.2023 passed in CRM (A) No. 216/2023 passed by the then Division Bench of this High Court.

4d. Finally, the learned PP submitted that initially he was not an accused as such, a notice under Section 160 of the CrPC was issued requiring him to attend before the Investigating Officer for the purpose of examination relating to the case. Subsequently, he was arraigned as an accused, when sufficient materials were found against him during the investigation. Therefore, a notice under Section 41A of the CrPC was issued by the Investigating Officer.

Therefore, there are no any anomalies to issue those two notices in different occasions and different situations.

4e. The Learned PP candidly admitted that the notice under Section 91 of the CrPC should not have been issued to the petitioner, when he was arraigned as an accused. The caption was an inadvertent mistake on the part of the Investigating Officer. However, in the said notice, the Investigating Officer of this case requested the petitioner to hand over the mobile phone set bearing IMEI No. 863711050892210 pursuant to the direction passed by the Hon'ble Supreme Court vide order dated 11.08.2023. Therefore, the instant Criminal Revisional application is liable to be dismissed and interim protection granted by this Court may be vacated for proper and smooth investigation as no charge sheet has been filed as yet.

DISCUSSION AND FINDINGS BY THIS COURT:

5. Heard the arguments and submissions of the learned counsels appearing on behalf of the parties and on perusal of the record as well as Case Diary, this Court is of the considered view that initially a notice was issued to the petitioner under Section 160 of the CrPC for the purpose of examination as a witness, at which time he was not an accused. Subsequently, upon discovery of sufficient materials against the petitioner during the course of investigation and, therefore, he

has been arraigned as an accused in the instant case and another notice was issued under Section 41A of the CrPC.

6. For the sake of ready reference, this Court would like to quote Sections 160, 41A and 91 of the CrPC as under:-

Section 160 of CrPC reads as under:-

“160. Police officer’s power to require attendance of witnesses.—(1) *Any police officer making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the facts and circumstances of the case; and such person shall attend as so required:*

Provided that no male person [under the age of fifteen years or above the age of sixty-five years or a woman or a mentally or physically disabled person] shall be required to attend at any place other than the place in which such male person or woman resides.

(2) The State Government may, by rules made in this behalf, provide for the payment by the police officer of the reasonable expenses of every person, attending under sub-section (1) at any place other than his residence.”

Section 41A of CrPC reads as under:-

“41A. Notice of appearance before police officer.—

(1) [The police officer shall], in all cases where the arrest of a person is not required under the provisions of sub-section (1) of section 41, issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.

(2) Where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.

(3) Where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested.

(4) Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, the police officer may, subject to such orders as may have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice.”

Section 91 of CrPC reads as under:-

“91. Summons to produce document or other thing.—*(1) Whenever any Court or any officer in charge of a police station considers that the production of any*

document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

(2) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.

(3) Nothing in this section shall be deemed—

(a) to affect sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), or the Bankers' Books Evidence Act, 1891 (13 of 1891), or

(b) to apply to a letter, postcard, telegram or other document or any parcel or thing in the custody of the postal or telegraph authority.”

7. The petitioner was well aware that he had been arraigned as an accused. Thus, he approached before this Hon'ble Court and filed an anticipatory bail application. However, the same was rejected on merit after hearing the parties and after going through the Case Diary.

8. The impugned order of rejection of his anticipatory bail was challenged before the Hon'ble Supreme Court by filing Special Leave Petition being No. 4796/2023. However, the same was dismissed vide order dated 20.09.2023 and affirmed the rejection order passed by the Hon'ble High Court.

9. It further reveals from the order of the Hon'ble Supreme Court that the petitioner was directed to join and cooperate with the investigation and hand over the mobile phone having IMEI No. 863711050892210 and other bank related documents for the purpose of investigation and the petitioner has duly complied with all the notices issued by the Investigating Agency from time to time as per requirement under the relevant Code of Criminal Procedure at different stages.

10. In view of the above facts and circumstances and further *prima facie* sufficient materials available in the Case Diary against the present petitioner, this Court does not find any valid or cogent reason to allow the prayer for quashing of the investigation against the present petitioner.

11. Since, it is appearing that he is *prima facie* involved in the alleged offences and investigation is in progress and at the verge of

conclusion of investigation, this Court cannot interfere with the investigation.

12. The judgment and order relied upon by the petitioner in the case of Rahul Chanda passed in WPA No. 24148 of 2023 is not at all applicable in the present case because in the said case, the Co-Ordinate Bench of this Court found that a notice which was issued to the petitioner purportedly one under Section 160 of the CrPC but containing elements of Section 41 of the CrPC. Therefore, it was directed to issue a fresh notice under Section 160 of the CrPC as, at that point of time, he was not an accused. The facts of this present case are totally different. Hence, this application has devoid of merit and is liable to be dismissed.

13. Accordingly, **CRR No. 4411 of 2023** is, thus, **dismissed**. **CRAN 2 of 2024** and **CRAN 6 of 2025** are also, thus, disposed of.

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

15. Interim order, if any, stands vacated.

16. Case Diary, if any, be returned to the learned counsel for the State.

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

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

(Ajay Kumar Gupta, J)

P. Adak (P.A.)