

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

Present:-

HON'BLE JUSTICE CHAITALI CHATTERJEE DAS.

CRR 4460 OF 2023

HARDAMA @ SUBHRANGSHU BERA

VS

THE STATE OF WEST BENGAL & ANR.

For the Petitioners : Mr. Aditya Sen, Adv.

For the State : Mr. Debasish Roy, Learned Public Prosecutor.

Mr. Imran Ali, Adv.

Mrs. Debjani Sahu, Adv.

For the Opposite

Party No. 2 : Mr. Balaram Pandit, Adv.

Mr. Krishna Deo Das, Adv.

Last heard on : 15.12.2025

Judgement on : 23.12.2025

Uploaded on : 24.12.2025

CHAITALI CHATTERJEE DAS, J. :-

1. The application has been filed under Section 401 and Section 482 of the Code of Criminal Procedure for quashing of the F.I.R no. 344 of 2021, pending before the Court of learned Judicial Magistrate, Dantan West Midnapur. The complainant is an advocate of Calcutta High Court and he lodged the

complaint on 23rd November, 2021 at around 3:20 PM. When he was leaving his chamber, he found one Palash Bera, Alias Bhola and the petitioner looking at the Opposite Party no. 2 ridiculed him and on asking Palash started abusing him with the filthy languages. The Opposite Party no.2, tried to take the petitioner and said Palash to his chamber for having a discussion, but Palash resisted and called his parents who came and started threatening the Opposite Party no.2 with dire consequences and instigated to kill the Opposite Party no. 2 who attempted to hit him by first targeting the left side head near the left ear lobe of the OP no.2, but the same could not happen due to timely intervention of the brother-in-law of the OP no. 2 and then Ramesh threatened to kill the Opposite Party no. 2 within 24 hours. The Opposite Party no. 2 on the basis of this fact lodged the F.I.R against the four accused including the petitioner at, Mohanpur Police Station on November 23, 2021 being F.I.R no. 344/21, under Section 341, 323, 320 307 and 506 and Section 34 of the Indian Penal Code. The I.O submitted charge-sheet against the accused and the petitioner before the Learned Court and only found evidence of Section 341/323/506/34 of the Indian Penal Code. Petitioner has filed the present case for quashing of such proceeding.

Submissions

2. It is the contention of the Learned Advocate representing the petitioner that two basic questions has been raised as to whether this court has the jurisdiction in determining and passing order in the aforesaid matter where the prayer is being made for the F.I.R to be quashed even after charge-sheet has been filed and whether the complaint of the Opposite Party no. 2, show

any reference of alleged crime under section 323/341/506 of the Indian penal code directly imputed on the petitioner. Further whether the Opposite Party no.2 claim that this revisional application is not maintainable on the basis of the precedent set by the Hon'ble Supreme Court of India in ***Pradnya Pranjal Kulkarni versus State of Maharashtra***¹.

3. It is submitted by the Learned Advocate that under Section 401, read with Section 482 of the Code of Criminal Procedure and Section 442 read with Section 528 of the BSS, this Court has the power and jurisdiction to determine the instant matter and this Court has statutory power to quash the FIR after perusing the complaint, FIR and charge sheet. The Court comes to the conclusion that no separate case has been made out against the present petitioner and found from the F.I.R that the basic requirement for lodging, such complaint is absent and the police made the basic enquiry in the case under Section 323/34 IPC and 506 before lodging FIR. No medical or injury report was filed at the time of lodging of FIR in order to prove Section 323 of the Indian Penal Code which was received on November 23, 2021 at 17.05 PM. It is further submitted that there was no actual indication of any crime against the petitioner, though he has been arrayed as an accused person in the written complaint. No case has been made out to attract Section 506 as the Opposite Party no.2 alleged that the petitioner was ridiculing him and insulting him, when to prove a case of criminal intimidation existence of threat and intimidation are necessary, which were absent against the petitioner.

4. The learned Advocate further submits that there is basic violation of the precedents set out by the Hon'ble Supreme Court and High Court. The

¹ 2025 SC online SC 1948

Opposite Party no. 2 has maliciously, dragging the name of the petitioner in the FIR for which the carrier of the petitioner is getting affected. Lastly, there has been no case made out against the petitioner and out of personal vendetta and maliciousness of the Opposite Party no. 2, this petitioner has been added as an accused person. Hence, prayed for quashing of the proceeding.

5. The learned advocate relied upon the decision of ***State of Haryana versus Bhajan Lal***², in order to substantiate that the situations where described there where the power of the High Court under Section 482 of code of Criminal Procedure presently under Section 528 of BNSS can be applied.

6. The Learned Advocate representing the opposite party no. 2, on the other hand submits that the F.I.R was lodged, stating the way the petitioner insulted him and tried to hit him and the role attributed by him, which was investigated and on completion of the investigation the sheet has been submitted. Therefore, prima facie the case has been proved by the investigating authority which is to be further established before the learned court of trial by adducing evidence. It is further submitted that from the statement made by the various witnesses, also, the allegations are proved primarily and then hence trial is necessary. The learned advocate has relied upon a decision reported in Pradnya ***Pranjal Kulkarni verus State of Maharashtra***³ where it has been observed that power under Section 528, BNSS was available to be exercise to quash the FIR/charge sheet, but also the order taking cognizance provided the same is placed on record along with the requisite pleadings. The same and a strong case is set up. Therefore, the order taking cognizance is not placed

² 1992 SUPP.(1) SCC 335

³ 2025 online SC 1948

before this court and hence this petition is not maintainable. Another decision has been relied upon by the learned Advocate in ***Vishwa Bandhu versus State of UP***⁴ and 3 others where also considering the aforesaid decision of the Hon'ble Supreme Court, refused the application for quashing the F.I.R on the ground that the petitioner did not place the charge-sheet as well as the cognizance taken on the charge sheet by the competent Court.

7. The learned Advocate representing the State also submits that since charge-sheet has been submitted and prima facie case is made out, it should not be quashed at the threshold.

Analysis

8. Heard the submissions of the Learned Advocates. The written complaint has been filed on November 24, 2021 by the Opposite Party no. 2 before the Mohanpur Police Station, alleging an incident happened on November 23, 2021 when the Opposite Party no. 2 being and practising advocate was leaving his chamber and found the accused persons standing on the road with their motorbike and Scooty respectively, without wearing helmet and was shouting at him and ridiculing him with an intention to insult him. On asking by the present petitioner about the reason he got furious and started abusing him with filthy languages and considering that there may be a possibility of breach of peace, he tried to take the petitioner to his chamber, but they resisted and immediately called their parents who within five minutes reached there and without listening, anything started abusing the O.P. no. 2 and threatened him with dire consequences and also used defamatory language against him. The

⁴ 2025 AHC 216 530

petitioner no. 1 uses criminal force and tried to push him down on the ground and also instigated the other accused person to assault him and when the said accused mentioned in the written complaint as accused no. 3 he attempted to hit him, however, at the intervention of the brother-in-law of the complainant they were restrained and the life of de-facto complainant was saved. So from the above nature of the allegation, it is glaringly visible that there was no incident of physical assault over the de-facto complainant but curiously on the basis of such complaint, the police started the case under Section 323 of Indian Penal Code which, after completion of investigation when the charge-sheet was submitted, was removed being not proved.

9. Therefore, the prima facie allegation levelled by the in the de-facto complainant filed the written complaint are found to be an exaggerated version of the incident happened on the said date. The present petitioner is the accused no. 2 in the written complaint against whom be found no role to have been ascribed from the written complaint. No iota of materials can be found against the present petitioner, besides ridiculing and shouting towards the complainant. However, no reason has been assigned as to why the person standing outside the chamber of the complainant. An advocate suddenly started shouting and abused him and what was uttered which can attract Section 506 of the Indian penal Code. In this case, since the charge-sheet has been submitted and the case diary has been handed over by the public prosecutor, the Court can peruse the statements made by the witnesses which also prima facie do not disclose any material to attract either 341 or 506 323 or 34 of the Indian Penal Code. In the celebrated decision of ***State of Haryana and others versus Bhajan Lal and others (Supra.)*** the Supreme Court was of the view that the

power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases. The extraordinary or inherent powers do not confer an arbitrary jurisdiction on the Court to act according to its view or caprice. The court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and on interpretation of the various provisions of the code and of the principles of law relating to the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code gave the categories of cases by way of illustration, wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice which are as follows; 1 to 207 .

10. The decision relied upon by the learned Advocate representing the opposite party in ***Pradnya Pranjal Kulkarni (Supra)*** a writ petition under Article 226 of the Constitution of India as well as under Section 528 of BNSS 2023 was presented before the High Court of judicature at Bombay, praying for quashing of a First Information Report where the allegations were under Section 420/406/409, read with Section 34 of the Penal Code, 1860. The petition was disposed of by the High Court in view of the ratio laid down by the Hon'ble Supreme Court in the case of ***Nee ta Singh versus state of Uttar Pradesh***⁵ holding the remedy lies in filing an application for discharge before the trial Court in favour of the petitioner. The argument was advanced before the Hon'ble Supreme Court that since the Division bench had the jurisdiction to hear criminal writ petitions, seeking quashing of FIR, C.R and charge sheet under section BNSS mere filing of the charge sheet under Section 193 BNSS

⁵ 2024 SCC Online SC 5761

does not render a Writ petition infructuous . The Apex Court considered that the police report was filed on completion of investigation of the FIR, but whether or not cognizance had been taken by the jurisdictional magistrate was not clear from such order and so long cognizance of the offence is not taken a writ order to quash the F.I.R or the charge-sheet could be issued under Article 226 but once a judicial order, taking cognizance intervenes , the power under Article 226 will not available to be exercised, but power under 528BNSS was available not only to quash FIR/charge sheet, but also the order taking cognizance, provided the same is placed on record along with the requisite pleadings to assail the same and a strong case is set up for quashing.

11. The said observation clearly manifest that it was meant for exercising power under Article 226/ and order Section 528 BNSS or 482 Cr.Pc when the prayer for quashing was made by filing the writ petition. In exercise of twin jurisdiction. In the case **of Radhe Shyam versus Chhobi Nath⁶** held that judicial orders are not ordinarily amenable to writ jurisdiction under Article 226 and classified the supervisory jurisdiction under Article 227 of the Constitution as well as 482 of the Code of Criminal Procedure. In the case of **Pepsi Food Limited and Another versus Special Judicial Magistrate⁷**, it was held that High Court may exercise power under Article 226 of the Constitution of India or 482 Cr.Pc. where abuse of process is evident. In the case of **Neeta Singh versus the state of Uttar Pradesh (Supra)**, which has been taken note of by the Hon'ble Supreme Court in the case of **Pradnya Pranjal Kulkarni verus State of Maharashtra (Supra)** it was held that

⁶ (2) 5 SCC 423

⁷ 1998) 5 SCC 749

when a competent court has taken cognizance a writ petition under Article 226 of the Constitution of India, simplicitor to quash and FIR may not survive. Therefore, in this case, the observation was that when twin jurisdiction of the court has been invoked so long, the cognizance of the offence is not taken and a writ order to quash F.I.R/Charge-sheet can be issued, but situation would be different if the cognizance is taken, and then such order must have placed before the Court and under Section 528 BNSS can exercise not only such FIR/charge-sheet, but also the order taking cognizance.

12. In the instant case the application is filed under Section 482 Cr.Pc for quashing of the proceeding pending and the power is to be exercised where there is gross abuse of the process of the Court. Hence, this Court is unable to accept the argument advanced on behalf of the Learned Advocate of the Opposite Party no. 2 in this regard. Since the content of the complaint has been discussed above and no material can be found from the four corners of the said complaint against the present petitioner which are sufficient to constitute the offences under Section 341/323/506/34 of the Indian penal code. In the case of **R.P. Kapoor versus State of Punjab**⁸ made the following observation:

“Cases may also arise where the allegations in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety, do not constitute the offence alleged; in such cases, no question of appreciating evidence arises; it is a matter merely of looking at the complaint or the first information report to decide whether the offence alleged is disclosed or not. In such cases, it would be legitimate for the High Court to

⁸ 1960 SCR (3) 311

hold that it would be manifestly unjust to allow the process of the Criminal Court to be issued against the accused person.”

In the case of ***Iqbal alias Bala and others versus State of Uttar Pradesh and Ors.***⁹ it was held that the Court must look into the averments made in the FIR/Complaint alone for the purpose of ascertaining where 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 it need be, with due care and circumspection try to read between the lines. The Court is not restricted only to a stage of a case but it is empowered to take into account the overall circumstances which lead to the initiation of the proceedings.

Conclusion

- 13.** In the wake of the above decision, and considering the absence of any materials against the present petitioner. This Court is also of the view that if this proceeding is allowed to be continued, it would be manifestly unjust and would be a gross abuse of the process of Court, and therefore is liable to be quashed.
- 14.** Hence this Criminal Revisional application stands allowed. The FIR and the charge sheet stands quashed.
- 15.** In view of the above all other connected applications are hereby disposed of.

⁹ (2023) 8 SCC 734

- 16.** Urgent Photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

[CHAITALI CHATTERJEE (DAS), J.]

