IN THE HIGH COURT AT CALCUTTA
(Criminal Revisional Jurisdiction)
Appellate Side

Present:

Justice Bibhas Ranjan De

C.R.R. 3696 of 2016

(Assigned)

Sanjay Kumar Singhania

Vs.

The State of West Bengal & Anr.

For the Petitioners	:Mr. Sabyasachi Banerjee, Sr. Adv. Mr. Ayan Bhattacharjee, Sr. Adv. Mr. Rajesh Upadhyay, Adv. Mr. Akshay Kumar Jain Sukhant, Adv.
For the State	:Mr. Rana Mukherjee, Ld. APP. Mr. Saryati Datta, Adv. Mr. Sachit Talukdar, Adv.
Last Heard on	:15.05.2025
Judgment on	**:13.06.2025**

<u>Bibhas Ranjan De, J.</u>

1. The petitioner being one of the Directors of a Company under the name and style of Cygnus Developers (India) Private Limited (hereinafter referred to as Company) has preferred the instant application under Section 482 of the Code of Criminal Procedure (for short CrPC) with a prayer for quashment of the proceeding being GR Case No. 2738 of 2014 arising out of Hare Street Police Station Case no. 690 of 2014 dated 11.12.2014 under Sections 467/468/471/420/379/411/120B of the Indian Penal Code (for short IPC) presently pending before the Court of Ld. Chief Metropolitan Magistrate, Calcutta.

<u>Factual backdrop of this case:-</u>

2. According to the petitioner the instant criminal prosecution must be adjudicated after cumulative evaluation of the gradual progression of certain factual scenarios which in a nutshell are to the effect that the Company was assigned a property admeasuring about 2 bighas, 18 cottahs, 15 chittacks and 15 sq.ft at the consideration of Rs. 30 lacs by way of a deed of conveyance dated 04.09.2008 through the official liquidator of the High Court. During the mutation proceedings before the concerned B.L. & LRO, it was noted that the total area of land was comprised in Dag Nos. 2580(P), 2586, 2583(P), 2584/2731(P) and Khatian Nos. 514(P),592,695,795 respectively. But in the said deed the Dag Nos. 2583 (part) & 2584/2731 (part) were not mentioned. Because of omission of the said dag numbers the petitioner was not able to record the entire land in the record of rights. Although, such mutation proceedings were initiated at the behest of the petitioner only after he received the delivery of the registered deed of conveyance from the registry office by producing the requisite IGR. Thereafter, the Company filed an application before this Court for incorporation of the missing dag numbers of the schedule of the deed of conveyance which was registered as CA No. 327 of 2014 wherein a report was called for by this Hon'ble Court from the concerned B.L. & LRO to ascertain the issue of missing dag numbers. In accordance with the direction, a report was submitted by the Registering Authority which ratified the plea of missing dag numbers. Therefore, this Hon'ble Court vide an order dated 01.08.2014 permitted the petitioner to get a supplemental deed of conveyance and/or a rectification deed. Afterwards in consonance with the solemn order of this Court when the representative of the Company went to the concerned office for the purpose of registering the supplementary/rectification deed, the Additional Registrar of Assurances –I, Kolkata (for short ARA –I) asked the representative of the petitioner to produce the original deed of conveyance. Upon production of the same, allegedly ARA-I confiscated the said deed and made a complaint to the officer-in-charge of the Hare Street Police Station dated 17.10.2014 alleging *inter alia* that the said deed had been taken out prior to its admission and without the knowledge or consent of the office of ARA-I and in addition to that deficit stamp duty and registration fees were also not paid. Based on the aforesaid complaint the impugned criminal proceeding arose. Afterwards, this Hon'ble Court in terms of the earlier order dated 08.01.2014 passed in connection with CA No. 667 of 2014 directed the Registering Authority through an order dated **06.02.2015** to immediately register and complete the instrument presented on 04.09.2008 and upon registration of the original deed of conveyance, the deed of rectification was also to be carried out within three weeks from the date of original deed of conveyance. Being aggrieved with the said order, the State Authorities preferred appeal A.P.O.T No. 101 of 2015 and A.P.O 150 of 2015, wherein the Hon'ble Division Bench affirmed the order dated 06.02.2015 and gave a further direction to the register authority to calculate the stamp duty on Rs. 30 lacs being the consideration value mentioned in the original deed. Thereafter the Company received a letter dated 17.07.2015 from the office of ARA-I thereby informing them that the documents have been admitted for registration having new deed no. 05806 of 2015 and asked for IGR in order to take delivery of original deed of conveyance as without receiving the original IGR, the office of the ARA –I would not hand over the original document. Thereafter, the company made an application in connection with the instant proceeding being CRAN No. 6 of 2023 which was disposed of by this Hon'ble Court vide order dated 22.06.2023 with a direction to hand over the original deed to the petitioner. As the solemn order of this Hon'ble Court was not abided by the ARA-I, a contempt proceeding was drawn up by this very bench vide order dated 17.10.2023. Pursuant to the contempt rule issued by this Hon'ble Court, the original re-numbered deed of conveyance bearing no. 05806 /2015 was handed over to the petitioner. In the meantime, charge sheet was submitted against the petitioner and one Debasish Shaw for allegedly committing offences punishable under Sections 467/468/471/420/379/411/120B of the IPC.

Argument advanced:-

3. Mr. Sabyasachi Banerjee, Ld. Senior Counsel, appearing on behalf of the petitioners has highlighted the admitted position that the title and possession of the property is not disputed and the same belongs to the Company of the petitioner herein which was registered in favour of the Company by the official liquidator of this Hon'ble Court in Court sale. Therefore, the allegation of stealing one's own deed stands absolutely frivolous.

4. Mr. Banerjee has further submitted that the allegations leveled in the charge sheet do not make out any of the offences alleged and in addition to that he has further expressed his surprise to the fact that the impugned charge sheet was filed after the Hon'ble Division Bench adjudicated the amount of stamp duty which was to be paid in favour of the petitioner.

5. Before parting with, Ld. Senior Counsel has expressed his concern that the motive asserted by the investigating agency for commission of the alleged offences was to avoid additional stamp duty but such issue was already put to rest by the Hon'ble Division Bench. Therefore, no mens rea to cause such alleged theft is made out. Accordingly, Mr. Banerjee has tried to make this Court understand that if such highly improbable and absurd prosecution is allowed to linger further, then it would be a gross abuse of the process of law.

6. In order to further strengthen his argument, Mr. Banerjee has taken assistance of the following cases:-

- ***S.K. Alagh vs. State of Uttar Pradesh and others, (2008) 5 Supreme Court Cases 662***
- ***State of Haryana and others vs. Bhajanlal and others, 1992 Supp (1) Supreme Court Cases 335***
- ***Sheila Sebastian vs. R. Jawaharaj and another (2018) 7 Supreme Court Cases 581***
- ***Sharad Kumar Sanghi vs. Sangita Rane, (2015) 12 Supreme Court Cases 781***

- ***Maksud Saiyed vs. State of Gujrat and others, (2008) 5 Supreme Court Cases 668***
- ***State of West Bengal vs. Sati Enclave Pvt. Ltd & Ors, 2010 SCC OnLine Cal 1569***

7. Ld. Senior Counsel, Mr. Banerjee in the light of the ratios elucidated by the Hon'ble Apex Court in the cases mentioned hereinabove, has stated that as the allegations mentioned in the FIR are frivolous, absurd and without any substantial basis, there is no sufficient ground to proceed against the accused. Uncontroverted allegations made in the FIR do not make out any plausible case against the accused therefore it is a fit case for exercise of inherent jurisdiction for securing the ends of justice.

8. Per contra, Mr. Rana Mukherjee, Ld. Additional Public Prosecutor, appearing on behalf of the State has refuted all the submissions advanced at the behest of the petitioner and accordingly argues that materials collected during the course of investigation indicate forgery and removal of the deed from the office of the opposite party no. 2 without due process of law and also the investigation has revealed credible material corroborating the allegation in the written complaint and therefore the instant proceeding should not be throttled at this nascent stage by taking recourse to Section 482 of the CrPC.

9. Mr. Mukherjee has concluded his argument by submitting that the stand of the petitioner as to whom the receipt had been handed over to, if any and how he procured the deed are disputed question of fact which can only be ascertained and proved after extensive trial. Therefore, this Hon'ble Court while dealing with an application under Section 482 CrPC is not allowed to consider the plea of the petitioner which has been vociferously placed by the Ld. Senior Counsel appearing on behalf of the petitioner.

10. In support of this contention, Mr. Mukherjee has referred to the ratio of the following cases mentioned hereinunder:-

- ***S.M. Datta vs. State of Gujarat and another, (2001) 7 Supreme Court Cases 659***
- ***Directorate of Enforcement vs. Niraj Tyagi and others, (2024) 5 Supreme Court Cases 419***
- ***Union of India and others vs. B.R. Bajaj and others, (1994) 2 Supreme Court Cases 277***

- ***Kamaladevi Agarwal vs. State of W.B. and others, (2002) 1 Supreme Court Cases 555***

11. Through the above referred cases Mr. Mukherjee has tried to take assistance of exhaustive, settled ratio enunciated by the Hon'ble Supreme Court which clearly suggests that if the FIR reveals commission of an offence then the investigation ought not to be scuttled. The genuineness of the averments enshrined in the FIR cannot be looked into. If the FIR is able to communicate or indicate possible disclosure of an offence even broadly then the question relating to quashing of the complaint would not arise.

Analysis:-

12. At the very outset, it would profitable to first venture into the ratios cited at the behest of both the parties. After a careful perusal of the cases adduced on behalf of the State it has come to my notice that the main tone and tenor of the cited judgments clearly speak about not interfering with the process of investigation by exercising power under Section 482 of the CrPC. However, I would only like to remind the admitted position of this case where the investigating agency has indeed filed a charge sheet after thorough investigation. Therefore, in my humble opinion the ratios of the cases cited by the State do not hold any applicability to the case at hand. Alternatively, the Hon'ble Apex Court itself in the case of ***S.M. Dutta*** (supra) has made it crystal clear that there cannot possibly be any guiding factor as to which investigation ought to be and ought not to be scuttled as factual matrix of each case differs from one another.

13. Before delving into the intricacies of the case at hand, it would be pertinent to briefly remind one and all about the settled principle enunciated by the Hon'ble Apex Court time and again through a plethora of decisions in connection with exercise of inherent jurisdiction under Section 482 of the CrPC.

14. At the stage of discharge and /or while exercising the power under Section 482 of the CrPC, the Court has a very limited jurisdiction and is only required to consider **"whether any sufficient material is available to proceed further against the accused for which the accused is required to be tried or not."** The only material requirement which is to be considered is a prima facie case and the material collected during investigation, which warrants the accused to be tried.

15. In the above conspectus, if I shift my focus towards the factual matrix of the case at hand, the main genesis of the criminal prosecution would revolve around the components of forgery and theft. In a bewildering twist of legal theater, a peculiar acquisition has emerged. The very individual who triumphantly acquired a property through the solemn proceedings of this High Court auction and who subsequently presented the deed for official registration now stands accused of pilfering those same documents from the Registry Office – an allegation that stretches the bounds of logic and reason to the point of absurdity.

16. Now coming to the issue of non-production of IGR as a testament to the allegation of theft of original deed by the petitioner from the office of the ARA-I, it would be pertinent to mention that when corrections are made in compliance with the Court order, the Registry Office is not necessarily required to issue a separate IGR for making necessary correction provided such correction is duly supported by the Court order. That apart, there is no specific provision of the

Registration Act, 1908 relating to issuance of IGR while accepting a deed for correction. This process is governed by procedural rules which do not mandate issuance of any certificate. In the light of the aforesaid discussion, if I make a cumulative evaluation of the orders of the Hon'ble Co-ordinate Bench as well as the Division Bench, especially the order dated 06.02.2015, it expressly directed the registering authority to immediately register the original deed of conveyance and complete the process of rectification within a specific time frame. Now coming to the order of the Hon'ble Division Bench dated 27.04.2015, it not only ratified the order of the Hon'ble Co-ordinate Bench but further specified the quantum of consideration value to be fixed in compliance with Court sale. Therefore in common parlance it can be well presumed that the A.R.A. – I had ample opportunity to raise all his grievances before the Court of Law as the complaint which gave rise to the instant prosecution was lodged on 17.10.2014 which is prior to the orders passed by this Hon'ble Court. But instead of raising these issues during the course of proceedings, the Registering Authority complied with the Court order and accordingly issued a letter to the petitioner thereby informing them about the admission of documents for registration which further buttress the plea of innocence of the petitioner.

17. Amidst this trying situation the main allegation levelled against the petitioner that the company had cheated by not paying deficit stamp duly of Rs. 17 lacs corresponding to the market value of the property as well as forgery and theft of the original deed of conveyance finds no locus and continuation of such vague, absurd and highly improbable criminal proceeding would indeed be a gross abuse of the process of Court as the instant criminal prosecution has got no legs to stand on its own.

18. In the light of the discussion made hereinabove, the factual background of this case squarely attracts the parameter no. 5 enunciated in the landmark case of ***Bhajanlal*** (supra) which runs as follows:-

> *“ **102.** In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the*

Code which we have extracted and reproduced above, we give the following 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, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

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

19. Therefore, keeping in mind the settled proposition of law while discharging the onus of exercising inherent jurisdiction, this Court is of the opinion that the proceeding in connection with GR Case No. 2738 of 2014 arising out of Hare Street Police Station Case no. 690 of 2014 dated 11.12.2014 is liable to be quashed.

20. As sequel, the revision application being no. CRR 3696 of 2016 stands allowed and the impugned proceeding is hereby quashed.

21. Connected applications, if there be any, stand disposed of accordingly.

22. Case diary be returned at once.

23. All parties to this revisional application shall act on the server copy of this order duly downloaded from the official website of this Court.

24. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

[BIBHAS RANJAN DE, J.]