

19.12.2025
Item No.6
Ct. No. 34
nb

CRR 4568 of 2022

In the matter of: **Shyamal Dey Sannamath & Ors.**

..... petitioners.

Mr. Arindam Jana,
Mr. S. Chakraborty,
Ms. Bratati Pramanick,
Mr. Yuvaraj Chatterjee,
Mr. Saikat Guin,

....For the Petitioners

Mr. Madhusudan Sur,
Mr. Manaranjan Mahata,,

.... For the State.

1. This is application for quashing of charge-sheet being No.32 of 2021 dated 30.4.2021 under Sections 323/325/34 of the India Penal Code pending before the Court of Learned Additional Chief Judicial Magistrate Bidhannager, North 24 Parganas has been filed by the present petitioners, who have been arrayed as an accused persons in the complaint lodged by the present opposite party no.2.
2. The case of the petitioner in a nutshell is that the present petitioners and the de facto complainant are all relatives and they have a family dispute over which proceeding is also pending. The present opposite party no.2 lodged a complaint on 05.04.2021 alleging physical assault upon him and his uncle, Rati Kanta Hajrah, who is 81 years old

by the petitioners no 1& 2 on 4th April and police came and rescued his uncle. He further alleged that his uncle was beaten up again by all the petitioners on 5th April with fist and blows. On completion of investigation, the charge-sheet has been submitted and present petitioners have thereafter come up for quashing of the proceeding with the specific case that opposite party no.2 has failed to make out any case against the present petitioners, which can attract Sections 323/325/34 of the IPC.

3. It is further submitted that there are several contradictions in the nature of allegation, the contents of the F.I.R. if can be compared with the contents of the injury report, which are found from the documents received by them after completion of filing of charge-sheet by the prosecution.
4. It is submitted by the learned counsel that no grievous injuries were recorded in the injury report and such injury report do not reflects any material and hence question of attracting Section 325 of I.P.C does not arise. That apart, the contents of the affidavit along with the statement made by the de facto complainant himself are absolutely contrary to each other, so far the manner in which assault was made by either opposite no.2 and his uncle aged about 81 years. That apart, in the injury

report, the names are given, who have acted to that torture but in the complaint nothing is mentioned.

5. It is further submitted before this Court that there is plethora of dispute pending between the parties both civil and criminal matters and the fact demonstrated that the present criminal proceeding is a *mala fide* and has been used to settle family property dispute. In the complaint lodged on April 5, 2021, the date of incident mentioned on April 4, 2021 but in the complaint no date was mentioned and the complaint was lodged with a retaliatory measure.
6. Learned counsel representing the present petitioner relied upon a decision in the case of ***State of Haryana & Os. Vs. Bhajan Lal & Ors.*** reported in ***1992 Supp (1) SCC 335*** and submits that facts and circumstances of this case squarely false within the 1st, 3rd and 7th category of the said decision as the allegation have been falsely levelled with an ulterior motive and did not constitute or make out an offence under Section 323 of the IPC.
7. Learned counsel on behalf of the petitioner has further relied upon the decision of ***Shalu Alia Salim V. State of UP and Ors.*** reported at ***2023 SCC OnLine SC 947*** and ***Haji Iqbal alian Bala through S.P.O.A Vs. State of Uttar Pradesh & Ors.*** reported in ***2023 SCC Online SC***

948 wherein the parameters of quashing was further stretched.

8. Lastly, he relied upon the decision of ***B.N. John Vs. State of U.P. & Anr.*** reported in ***2025 SCC OnLine SC 7*** in order to substantiate that when the FIR is silent on certain facts, the prosecution cannot improve or develop their case by way of subsequent development made in Section 161 statements. Accordingly, he submits that if it is allowed to be continued it would be a gross abuse of process of law and prayed for quashing.
9. None appears to represent the opposite party no.2 though informed by the State, pursuant to the direction of this Court dated 18.11.2025.
10. Per contra the learned counsel representing the State submits that on the basis of the complaint, the case was registered and on completion of investigation, the charge-sheet has been submitted, which, *prima facie* establishes the complaint against the present petitioners, not only that the statement made under Section 161 of the charge-sheeted witnesses coupled with the injury report, also, *prima facie*, shows that the injury received by the de facto complainant hence the same should be contested in course of trial while adducing the evidence by the party before the learned Court and the same should not be throttled.

11. Heard the submission of the learned counsel for the parties. On perusal of the materials from the record, there is a family dispute underlying the case with a civil suit for declaration in respect of business is pending can be found before the learned Civil Court can be found.
12. The complaint was lodged on April 5, 2021 by the present opposite party no.2 with an allegation of physical assault upon him and his uncle, Rati Kanta Hajrah on both dates i.e. April 4, 2021 and April 5, 2021. It was specifically mentioned that after the incident on April 4, 2021 the police came and rescued the uncle and on the next day, the incident happened when this complaint was lodged. As per the complaint case, Rati Kanta Hajrah was physically assaulted on April 5, 2021 and the present petitioner pushed the complainant. The statement recorded in respect of the witnesses under Section 161 of the Code would also manifest the inimical relationship between the parties giving rise to heated altercations and resistance from entering into the room.
13. In terms of the decision of **Haji Iqbal alias Bala (supra)** it was observed by the Hon'ble Supreme Court that:

“At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226

of the Constitution to get the FIR or the criminal proceedings manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court should look more closely. We say so because once the complainant decides Court owes a duty to look into the FIR with care and a little to proceed against the accused with an ulterior motive for the FIR/complaint is very well drafted with all the necessary ingredients for wreaking personal vengeance, etc., then he would ensure that pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint 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 CrPC or Article 226 of the Constitution 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."

14. Therefore, since the charge sheet has been submitted the documents received by the petitioner in terms of Section 207 of the Code of Criminal Procedure as well as the Case Diary as handed over by the learned prosecution are to be scrutinized .
15. In terms of decision of **B. N. John (supra)** it was observed that the alleged fact of assault or use criminal force by the appellant could not be said to have been discovered at a later point of time .The commission of criminal facts in the F.I.R. cannot be supplemented through witness's statement under Section 161 of the Code of Criminal Procedure.
16. In the complaint, the specific averment was that Rati Kanta Hajrah was resisted by the present petitioner nos.1 and 2 from entering into his room on 4th April and then police was called to rescue him but no material were found to substantiate the same . No written complaint was lodged over the said incident and the police came to rescue but nothing can be found as to whether the room was lock and key and how he was allowed to enter into the room by the police.
17. The injury report of the defacto complaint only discloses joint pain and there is no injury report of the uncle who was alleged to have been beaten up . Therefore, prima facie, no ingredients can be found to attract Section 325 of the IPC.

18. The statement recorded under section 161 of Cr.Pc primarily narrates their different stand as regard to injury caused to the complainant and his uncle and despite receiving information and rescue made by the police no case was started against the petitioner. It is pertinent to note that the charge sheet is silent about any such rescue and it manifest the mechanical manner the investigation. The written complaints narrates an incident of assault upon the 81 years old person by all the petitioners but no injury report can be found and from the statement also it could be gathered that his injury was not serious enough so medical report is there. Which prima facie dilutes the gravity of the case as has been tried to make out in the complaint.
19. It is settled proposition that the power under section 482 CrPC are very wide and the very plenitude of the power requires great caution in its exercise. In the case of *Salib @ Shalu @ Salim vs State of U.P* 2023 INSC 687 the parameters laid down by the Supreme Court for quashing the F.I.R in the case of *Bhajanlal* (supra) were discussed which are as follows 1 to 7 and the F.I.R, was quashed as there was no necessary ingredients to constitute the alleged offence.
20. Therefore, upon all conspectus as discussed above and the judicial pronouncement as further discussed, this Court is of the view that it would not be proper to quash the entire proceeding pending before the learned Trial Court because the entire allegation should be tested through process of trial. In order to attract the ingredients to constitute an offence under

section 235 IPC the accused must cause the voluntary hurt and the Hurt should be grievous within the meaning of section 320 I.P.C. However, this Court is of the view that so far as the Section 325 is concerned the complaint is devoid of sufficient material and therefore, there is no reason to proceed further and it would be gross abuse of the process of law. Hence the proceeding so far the commission of offence under Section 325 IPC is concerned. The same charge is rejected or quashed.

21. Accordingly, this revisional application is allowed in part. It is made clear that the observations made herein are relevant only for the purpose of the allegation against the petitioners in respect of the commission of offence under Section 325 IPC.
22. All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(CHAITALI CHATTERJEE (DAS), J.)