

12.08.2025
SL. 16
Court No. 3
Sourav

**In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Criminal Revisional Jurisdiction**

C.R.R. 77 of 2024

In re: An application Under Section 401 read with Section 482
of the Code of Criminal Procedure, 1973.

And

In the matter of: **Nayan Barman**

... petitioner.

Mr. Sourav Ganguly
Mr. Gopal Roy
Ms. Rishita Chakraborty
Ms. Deblina Ray

... for the petitioners.

Mr. Aditi Shankar Chakraborty, Ld. APP
Mr. Sagnik Sankar Sikdar

... for the State.

1. This is an application under Section 482 Cr.P.C.
2. By filing the instant application, the petitioner has prayed for quashing of entire proceeding as arises out of Shamuktala P.S. Case No. 65 of 2023 dated 11.03.2023 which ended in submission of charge-sheet under Section 417/376 IPC against the present accused person.
3. At the time of hearing, Mr. Ganguly, learned advocate appearing on behalf of the accused petitioner at the very outset draws attention of this Court to Page No. 13 of the instant petition, being a copy of the written complaint as lodged in connection with the said P.S. case. Attention of this is also drawn to Page No. 18, being a copy of the medical examination report of the victim lady.
4. It is submitted by Mr. Ganguly that in the said written

complaint as well as in the said medical examination report of the victim lady, the place of occurrence was described as one resort at Mendabari, however, no materials have been collected in course of investigation that in which resort of Mendabari, the alleged crime was committed by the present accused petitioner.

5. At this juncture, Mr. Ganguly again took me to the certified copy of the medical examination report of the present accused petitioner. It is submitted by Mr. Ganguly that from such medical examination report, it would reveal that the present accused petitioner is incapable to perform sexual intercourse.
6. It is thus submitted by Mr. Ganguly that the lacuna and/or discrepancy as pointed out hits the very root of the said P.S. case and, therefore, there cannot be any hesitation to hold that the allegation as made in the FIR remains as an allegation and, therefore, the learned trial Court ought not to have taken any cognizance in connection with the said P.S. Case.
7. In course of his submission, Mr. Ganguly places his reliance upon a judgment dated July 29, 2025 as passed by the Hon'ble Supreme Court in SLP(Cri.) No. 7004 of 2025 (**Kunal Chatterjee Vs. The State of West Bengal & Ors.**). It is submitted by Mr. Ganguly that in the said decision of **Kunal Chatterjee (supra)** as well as in various other decisions as have been mentioned in Page No. 3 of the said

judgment, it is the categorical findings of the Hon'ble Supreme Court that in a case where there is absolutely no evidence, the Court should not be hesitant to invoke its power for quashing.

8. Per contra, Mr. Chakraborty, learned APP appearing for the State draws attention of this Court to the various materials as collected by the I.O. in course of investigation.
9. Drawing attention to Page Nos. 15 and 32 of the Case Diary as placed before this Court, it is submitted by Mr. Chakraborty that on conjoint perusal of the said two pages i.e. the medical examination report of the victim as well as the statement of the victim as recorded under Section 164 Cr.P.C., it would reveal that on behalf of the prosecution a *prima facie* case has been made out to go for a trial and thus, this Court must be very slow to invoke its power for quashing as prayed for.
10. On careful perusal of the entire materials as placed before this Court and after hearing the contending parties, I at the very outset propose to look to the written complaint as submitted in connection with the aforementioned P.S. Case. It appears to this Court that the said written complaint unerringly points out the involvement of the present accused petitioner in the alleged crime.
11. As rightly pointed out by Mr. Chakraborty that in course of her examination under Section 164 Cr.P.C., the victim lady supports the case of the prosecution.

12. It thus appears to this Court that the allegations as made out in the written complaint, even if, it is taken on its face value really constitute an offence under Sections 417/376 IPC at least *prima facie* and in course of investigation sufficient materials have been collected by the I.O. to substantiate the same. It thus appears to this Court that the allegations as made out in the FIR can no way be considered as uncontroverted for invoking the power of this Court for quashing of the entire proceeding as prayed for.
13. In considered view of this Court, the unreported decision of the Hon'ble Supreme Court in the case of ***Kunal Chatterjee (supra)*** is quite distinguishable from the facts and circumstances of the instant case in view of the fact that by no stretch of imagination, it can be said that the charge-sheet has been filed in connection with the aforementioned case based on no evidence at all.
14. With the aforementioned observations, the instant application for quashing being **CRR 77 of 2024** is dismissed.
15. Before parting with, it is, however, made clear that the observations as made hereinabove is purely limited for disposal of the instant petition for quashing and as such, learned trial Court is hereby directed not to persuade himself with any such finding at the time of final disposal of the trial.
16. Department is directed to forward a copy of this order to the

learned trial Court for his information and record.

17. Case Diary be returned.

(Partha Sarathi Sen, J.)