

July 7, 2025
Ap (86)

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

**CRR 141 of 2025
With
CRAN 2 of 2025
CRAN 3 of 2025**

Rafikul Islam & Anr.
Vs.
State of West Bengal & Ors.

Adv. Arnab Saha,

...for the petitioners.

Adv. Abhimanyu Banerjee

.... For the opposite party no. 3.

Adv. Nilay Chakraborty
Adv. Tapan Bhattacharjee

... for the State.

Supplementary affidavit filed by the petitioners is taken on record.

Heard learned counsel for the parties.

The petitioners seek quashing of proceeding in connection with Kharibari police station case no. 60 of 2025 dated 4th March, 2025 pending before the learned Additional Chief Judicial Magistrate, Siliguri, Darjeeling.

18 cattle belonging to the petitioners were being carried in a truck which was intercepted by the police on 4th March, 2025. The 3rd opposite party who is admittedly the owner of the truck authorized the petitioners to transport the cattle in his truck. He has not alleged theft of either the truck or the cattle.

The primary allegation against the petitioners is violation of Section 11(1) (d) of the Prevention of Cruelty to Animals Act 1960.

Section 11(1) (d) of the Act deals that in conveyance or carriage of any animal in such a manner or position as to subject it to unnecessary pain or suffering.

It appears from the supplementary affidavit filed by the petitioners that the truck in which the cattle was being transported was about 32 ft. in length and 8ft in width. The said dimensions have not been opposed by the State. No material has transpired in course of evidence to even prima facie suggest violation of the relevant provision of the Act of 1960 by the petitioners. The truck has been returned to the owner by the learned Magistrate who, by an order passed on 7th April, 2025, has found the petitioners guilty of Section 11(d) of the Act of 1960 despite there being a stay of proceeding by this Court by an order passed on 25th march, 2025. By the said order, the learned Magistrate was only permitted to deal with the application for return of the seized truck and cattle and had no authority to return a finding with regard to the merits of the case.

Since no evidence has transpired during investigation suggesting violation of Section 11(1) (d) of the Act, 1960 by the petitioners, this Court is of the view that there is no evidence on record which justifies continuation of the present proceedings against the petitioners. In absence of any material on record, allowing the proceedings to continue shall amount to abuse of the process of the Court.

Accordingly, CRR 141 of 2025 is allowed.

The connected application being CRAN 2 of 2025 is disposed of.

The proceeding of Kharibari Police Station Case no. 60 of 2025 dated 4th March, 2025 pending before the learned Additional Chief Judicial Magistrate, Siliguri, Darjeeling be quashed.

The cattle be returned to the petitioners at once.

There shall however be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to have been admitted.

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

(Suvra Ghosh, J.)