

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL REVISIONAL JURISDICTION**

Present:

The Hon'ble Justice Partha Sarathi Sen

CRR 167 of 2024

In re: An application under Section 482 of the Code of Criminal Procedure, 1973.

In the matter of: **Sri Surajit Das & Anr.**

With

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CONSTITUTIONAL WRIT JURISDICTION**

WPA 604 of 2024

**Anindra Majumder Sastri
Vs.
The State of West Bengal & Ors.**

For the petitioner in
CRR 167 of 2024 : Mr. Pritam Roy
Ms. Monisha roy
Ms. Silpi Basu

For the State : Mr. Abhijit Sarkar
Mr. Sourav Ganguly

For the petitioner in
WPA 604 of 2024 and for
the private opposite parties
in CRR 167 of 2024 : Mr. Rajdeep Mazumder, Sr. Adv.

Heard on : 11.08.2025

Judgement on : 11.08.2025

PARTHA SARATHI SEN, J.:

1. By filing the instant revisional application being CRR 167 of 2024, the revisionist has prayed for quashing of the entire proceeding as arose in connection with Matigara P.S. Case No. 102 of 2024 under Sections 406/420/379/34 IPC which is now pending before the learned Additional Chief Judicial Magistrate at Siliguri being G.R. Case No. 530 of 2024.
2. By filing the instant writ petition, being WPA 604 of 2024, the writ petitioner has prayed for issuance of appropriate writ/writs against the respondents/authorities, more specifically, against the respondent no. 5 herein who is the I.O. in connection with the said P.S. commanding him to investigate the said P.S. case in an appropriate manner along with other ancillary reliefs.
3. At the time of hearing, Mr. Roy, learned advocate appearing on behalf of the revisionist in CRR 167 of 2024 at the very outset draws attention of this Court to the certified copy of the written complaint dated 30.01.2024 as lodged by one Anindra Majumder Sastri, the opposite party no. 2 in CRR 167 of 2024.
4. It is submitted by Mr. Roy that on perusal of the said written complaint dated 30.01.2024, it would reveal that it is the specific case of the said informant that the entire consideration money in respect of a registered deed of conveyance dated 19.07.2023 as has been

executed in favour of one Nikita Anand in respect of Shop No. B-109, 1st Floor, City Centre Mall at Matigara (hereinafter referred to as 'the said shop room' in short) was not paid and according to the defacto complainant an amount of Rs. 25 lakhs was still due and outstanding to the vendor of the said registered deed of conveyance.

5. It is further submitted by Mr. Roy that from the 2nd page of the said written complaint, it would reveal that an allegation has been leveled against the present writ petitioners, more specifically, against the revisionist no. 1, wherein the informant had stated regarding stealing of furniture and clothing to the tune of Rs. 40 lakhs from the said shop room at the instance of the present revisionist no. 1.
6. At this juncture, Mr. Roy took me to Page Nos. 13 to 53 of the instant revision petition, being a copy of the registered deed of conveyance as has been executed on 19.07.2023 and as registered on 20.07.2023 in respect of the said shop room wherein one Dr. Shib Shankar Sastri, the father of the said defacto complainant being the constituted attorney of the original owner signed as 'vendor' and the said Nikita Anand signed as the 'purchaser'.
7. Drawing attention to Page No. 45 of the instant revisional application, it is further submitted by Mr. Roy that from the memo of consideration of the said deed of conveyance, it would reveal that a

sum of Rs. 82,89,000/- was transferred to the vendor by way of RTGS by the purchaser of the said shop room.

8. Mr. Roy draws further attention of this Court to Page No. 54 of the instant revisional application, being a copy of letter dated 27.09.2023 wherefrom it reveals that the purchaser of the said shop room obtained a confirmation regarding such transfer from Ambuja Realty Development Limited on account of execution of the deed of conveyance dated 19.07.2023 which was registered on 20.07.2023.
9. Mr. Roy, in course of his submission again took me to Page No. 57 of the instant revisional application, being a copy of the letter dated 25.09.2023² as written by the vendor of the said registered document addressed to the Manager of the City Centre Mall, Matigara intimating him regarding alleged non-payment of the entire consideration money.
10. It is submitted by Mr. Roy that on careful perusal of the written complaint dated 30.01.2024, it would reveal that the said informant who is the opposite party no. 2 herein is not a party to the said deed of conveyance. It is further submitted by Mr. Roy that on perusal of the written complaint dated 30.01.2024, it would reveal that the allegations made in the FIR, even if, it is taken at its face value and accepted in its entirety do not prima facie constitute an offence or

make out a case against the accused and, therefore, there cannot be any bar for invoking the provisions of Section 482 Cr.P.C.

11. It is submitted that from the copy of the letter dated 25.09.2023 as written by the power of attorney holder of the original vendor though reveals an allegation of non-payment of the entire consideration money, however, the said letter nowhere disclosed that the possession of the said shop room was not transferred to the purchaser and/or the original vendor and/or her duly constituted attorney had not stated that even after execution of the registered deed of conveyance in respect of the said shop room, the said vendor and/or her constituted power of attorney holder had kept some valuable articles in the said shop room which have been transferred to the transferee.
12. It is thus submitted by Mr. Roy that it is a fit case for quashing of the FIR as prayed for.
13. It is further submitted by Mr. Roy that in view of such, the writ petitioner in WPA 604 of 2024 is not entitled to any relief as prayed for.
14. Per contra, Mr. Sarkar, learned advocate appearing on behalf of the State in CRR 167 of 2024 candidly submits before this Court that the informant was not the owner of the said shop room and on the contrary, he is the brother of the original vendor.

15. On being asked by this Court, Mr. Sarkar, learned advocate appearing on behalf of the respondent/State further submits before this Court that apart from the statement of the said power of attorney holder, the I.O. could not collect any material with regard to the alleged theft and/or alleged cheating from the statements of the other witnesses as recorded so far under Section 161 Cr.P.C.
16. In course of his submission, Mr. Majumder, learned senior advocate appearing on behalf of the opposite party no. 2, submits before this Court that it is the specific case of the opposite party no. 2 that the execution of the alleged registered deed of conveyance dated 19.07.2023 as has been annexed with the instant revisional application is itself doubtful. It is further submitted by Mr. Majumder that there cannot be any occasion to invoke the power under Section 482 Cr.P.C. as prayed for since on bare perusal of the written complaint, it would reveal that the ingredients of offence as mentioned therein have been prima facie attracted. It is further submitted by Mr. Majumder that by no stretch of imagination, it can be said that it is a civil dispute. Mr. Majumder thus submits that it is a fit case for dismissal of the instant revisional application.
17. In course of his submission, Mr. Roy, learned advocate appearing on behalf of the writ petitioner submits before this Court that sufficient materials have been placed before this Court to substantiate that the

investigating officer of the aforementioned P.S. Case has failed to discharge his obligation to investigate the said P.S. Case in an appropriate manner and, therefore, appropriate relief/reliefs may be granted to the writ petitioner in terms of the prayers made in the instant writ petition.

18. This Court has meticulously gone through the entire materials as placed before this Court in connection with the instant revisional application as well as in connection with the instant writ petition since both the cases have been tagged together on account of involvement of identical nature of facts as involved in both the litigations where the parties to the litigation are also almost identical.
19. This Court has given its due consideration over the submissions of the learned advocates for the contending parties.
20. At this juncture, if I look to the photocopy of the registered deed of conveyance dated 19.07.2023 as has been executed by and between Ankita Majumder Sastri through her power of attorney holder (vendor) and Nikita Anand (purchaser), it reveals that in respect of the said shop room, the entire consideration money was paid to the vendor through RTGS mode.
21. At this juncture, if I look to the written complaint dated 30.01.2024, it reveals that it is the specific case of the informant that though the said

document was executed and registered but the entire consideration money was not paid.

22. It is settled principle of law that in the event, a document is executed and registered in accordance with law and in absence of any proof of fraud, undue influence, coercion, misrepresentation etc., title passes in respect of the property in question forthwith to the purchaser and the said registered document cannot be cancelled at the instance of the vendor on account of non-payment of consideration money either in part or full and, therefore, the only relief lies with the vendor to sue the purchaser for recovery of the alleged balance consideration money.
23. Be that as it may, it appears to this Court that in the said written complaint, however, no allegation is made against the original purchaser to the effect that in the said deed of conveyance, the signatures as available in the said registered documents are not of the vendor and/or her duly constituted power of attorney holder as contended by Mr. Majumder in course of his argument.
24. On further perusal of the said written complaint dated 30.01.2024, it reveals that the FIR maker is not the original vendor of the said registered document. On the contrary, the said written complaint was lodged by the brother of the vendor of the said deed of conveyance.
25. It is further pertinent to mention herein that though it is the specific case of the informant that the alleged theft to the tune of Rs. 40 lakhs

was committed by the present revisionist, however, as rightly pointed out by Mr. Sarkar that in the C.D. there is no whisper of any such theft and even, from the letter dated 25.09.2023 as written by the power of attorney holder of the original vendor to the Manager of the relevant mall, it would reveal that it is the specific case of the said power of attorney holder that the goods worth of Rs. 25 lakhs was/were lying in the said shop room but nowhere in such letter, it has been stated that the possession of the said shop room was never transferred to the said purchaser, however, from the recitals of the said deed of conveyance, it reveals that the right, title, interest and possession of the said shop room passed forthwith in favour of the purchaser upon execution of the said registered deed of conveyance.

26. At this juncture, I propose to look to the reported decision of the Hon'ble Supreme Court in ***Chilakamarthi Venkateswarlu Vs. State of Andhra Pradesh & Another***, reported in **(2020) 17 SCC 595** wherein the Hon'ble Supreme Court while dealing with a case under Section 482 Cr.P.C. held thus:

“20. In rejecting the application, the High Court relied upon the judgment of this Court in State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426 where this Court laid down the following guidelines for exercise of power under Section 482 : (SCC pp. 378-79, para 102)

- (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 of 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 Act concerned (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 Act concerned, 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.”

27. Keeping in mind the proposition of law as decided in the case of ***Chilakamarthi Venkateswarlu (supra)*** if I look to the factual aspects of this case, it appears to this Court that the allegations made in the First Information Report or the complaint not at all constitute any offence even prima facie justifying an investigation by a police officer on account of disclosure of an alleged cognizable offence.
28. This Court has also meticulously gone through the materials collected by the I.O. in connection with the Matigara P.S. wherefrom it reveals that the evidence collected so far also do not support the FIR case and even, do not disclose any commission of offence as alleged.
29. In view of such, this Court finds no reason to allow the police authorities to proceed with the further investigation of Matigara P.S. Case No. 102 of 2024 under Sections 406/420/379/34 IPC. This Court thus considers that the instant application for quashing of the FIR in connection with the Matigara P.S. Case No. 102 of 2024 deserves to be allowed.
30. Consequently, the instant revisional application being **CRR 167 of 2024** is hereby allowed.

31. Consequently, the FIR in connection with Matigara P.S. Case No. 102 of 2024 and all subsequent actions taken in connection with the aforementioned P.S. Case corresponding to G.R. Case No. 530 of 2024 as pending before the learned Additional Chief Judicial Magistrate, Siliguri is hereby quashed.
32. Consequently, no relief can be granted to the writ petitioner in WPA 604 of 2024.
33. Accordingly, the instant writ petition being **WPA 604 of 2024** is hereby dismissed.
34. There shall be, however, no order as to costs.
35. Urgent Photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)