

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

**PRESENT:
THE HON'BLE JUSTICE UDAY KUMAR**

CRR 201 of 2025

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CRAN 1 of 2025

Sri Soujanya Roy @ Soujanya Raj Roy

-Vs.-

The State of West Bengal & Anr.

For the Petitioner : Ms. Somdutta Patra
Ms. Swagata Mitra

For the Opposite Party No.2 : Mr. Debaya Goswami
Mr. Subham Gupta

For the State : Mr. Aditi Shankar Chakraborty, Ld. APP
Mr. Tapan Bhattacharjee

Hearing concluded on : 31.07.2025

Judgment on : 02.08.2025

Uday Kumar, J.:-

1. This revisional application, bearing CRR 201 of 2025, has been moved by the petitioner, Sri Soujanya Roy @ Soujanya Raj Roy, invoking the inherent powers of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as BNSS, akin to Section 482 of the Code of Criminal Procedure, 1973), seeking

quashing of the criminal proceedings initiated against him in G.R. Case No. 806/2024, which arises from Coochbehar Kotwali P.S. Case No. 469/2024 dated 07.05.2024 under Sections 341, 354, 323, and 506 of the Indian Penal Code, currently pending before the Learned Chief Judicial Magistrate Court at Coochbehar.

- 2.** The brief facts leading to the present application are that Opposite Party No. 2, Smt. Amrita Biswas Roy, lodged a written complaint with the Officer-in-Charge, Kotwali Police Station, on May 7, 2024. In her complaint, she alleged two distinct incidents. Firstly, that on October 30, 2023, at about 18:00 hours, the petitioner wrongfully restrained her and her brother and outraged her modesty. Secondly, she alleged that on May 5, 2024, at approximately 10:00 hours, after she confronted the petitioner about abusive language on her mobile phone, he physically assaulted her with kicks, fists, and blows, and again outraged her modesty. Based on this complaint, Kotwali P.S. Case No. 469/2024 was registered, and subsequently, a charge sheet, being No. 533/2024 dated June 30, 2024, was submitted by SI Munna Rai against the petitioner for the aforementioned offences.
- 3.** The petitioner, however, presents a significant counter-narrative, asserting a preceding criminal case initiated by him. He states that he had lodged an FIR on October 30, 2023 (FIR No. 1193/2023, corresponding to G.R. Case No. 2076/2023), concerning an incident that occurred on October 28, 2023. In that FIR, he alleged assault upon himself and his friend, Sri Ranajit Banerjee, by unknown individuals, one of whom falsely identified himself as "Arindam Biswas" (Branch

Manager, UCO Bank), who the petitioner now asserts to be the elder brother of the present complainant, Amrita Biswas Roy. It is also the petitioner's specific contention that the female accompanying the assailants in that incident was the present Opposite Party No. 2, Amrita Biswas Roy herself. It is an admitted fact that Sri Arindam Biswas subsequently obtained bail in the petitioner's case on April 12, 2024.

4. Ms. Somdutta Patra, the learned Counsel for the Petitioner has fervently contended that the allegations by Smt. Amrita Biswas Roy are not only false and fabricated but are designed with an ulterior motive to harass and malign the Petitioner's reputation. The critical delay in lodging the FIR for the October 30, 2023 incident – a gap of nearly seven months – is glaringly unexplained. Furthermore, the timing of her complaint, following her elder brother's bail in the Petitioner's prior case, casts an inescapable shadow of retaliation. Counsel explicitly asserted that this is a counter-blast, engineered to cause the Petitioner "unnecessary mental agony, financial loss, and damage to his reputation," and to "destroy him economically and assassinate his character completely."
5. Ms. Patra further highlighted that despite the alleged incidents of assaults occurring in broad daylight and at public locations, the complainant has failed to produce any independent and neutral witnesses. The witnesses cited in the charge sheet are termed as "close associates and interested parties," whose statements are "a mere reproduction of the complainant's allegations without independent verification." Moreover, the claim of abusive calls from the Petitioner lacks any supporting credible call records or electronic evidence. An

allegation of assault in a public place, without a single independent corroborating witness, strains credulity, especially when weighed against the strong suggestion of personal vendetta.

6. Serious questions were also raised regarding the fairness and impartiality of the police investigation in Kotwali P.S. Case No. 469/2024. Firstly, the Petitioner alleges that the police failed to adequately investigate his prior FIR (No. 2076/2023) despite identifying assailants like Raju Sarkar (Arindam Biswas) and Surajit Sarkar. Secondly, the Charge Sheet in the present case falsely claims service of notice under Section 41A CrPC (now Section 41A BNSS) without specifying date, time, or confirmation of the Petitioner's presence. Most critically, the police incorrectly reported the Petitioner as "ABSENT," leading the Learned Chief Judicial Magistrate to term him "ABSCONDING" without proper inquiry. The distinction between "absent" and "absconding" carries significant legal implications regarding the issuance of coercive processes.
7. Finally, the Petitioner points to the unsettling fact that the same Investigating Officer, SI Kajal Das, appears as a witness in the charge sheets of both the Petitioner's original case and the present retaliatory case. Furthermore, the Inspector-in-Charge of Kotwali P.S. was demonstrably aware of the background of both intertwined FIRs, yet apparently directed the submission of a charge sheet in the present case based on what is argued to be a fabricated complaint and manipulated investigation. This suggests a pre-determined outcome rather than a dispassionate investigation.

8. The Petitioner's counsel ultimately contended that a bare reading of the FIR and the charge sheet does not disclose the essential ingredients for offenses under Sections 341, 354, 323, and 506 IPC, and that continuation of these proceedings amounts to a patent abuse of the process of law, causing irreparable injury to the Petitioner's reputation and liberty, and ultimately leading to a grave miscarriage of justice.
9. In response, Mr. Aditi Shankar Chakraborty, the learned Counsel for the State submitted that the allegations in the FIR and the evidence collected during the investigation *prima facie* disclose the commission of cognizable offences against the Petitioner. He contended that the complaint made by Smt. Amrita Biswas Roy details specific incidents of alleged restraint, physical assault, and outraging of modesty, which fall squarely within the ambit of Sections 341, 354, 323, and 506 IPC.
10. It was argued that the delay in lodging the FIR for the October 2023 incident was a matter of fact to be explained during trial and could not, at this nascent stage, be a ground for quashing the entire proceedings. Furthermore, the timing of the present FIR, while proximate to the bail granted to Opposite Party No. 2's brother, was merely coincidental and did not inherently prove *mala fide* intention. The prosecution asserted that it was the complainant's right to lodge an FIR when she felt aggrieved, regardless of any parallel proceedings involving her family members. Regarding the alleged flaws in the investigation, the learned Counsel for the State submitted that due procedure was followed.
11. He contended that the notice under Section 41A BNSS (erstwhile CrPC) was duly attempted, and the Petitioner was reported "absent" based on

the Investigating Officer's on-site findings. The subsequent observation by the Learned Chief Judicial Magistrate regarding the Petitioner being "absconding" was a judicial assessment based on the available police report and the Petitioner's non-appearance. They further maintained that the involvement of the same police officers in different cases was not unusual or indicative of bias, provided that the investigation was conducted impartially, which they claimed it was. The Charge Sheet, being a product of investigation, revealed sufficient grounds to proceed against the Petitioner, thus warranting a trial.

- 12.** In essence, the principal question that falls for my determination is whether, in the given factual matrix and the specific contentions raised, the continuation of criminal proceedings in G.R. Case No. 806/2024 against the petitioner would amount to an abuse of the process of law or would otherwise be necessary to secure the ends of justice, thus warranting the exercise of this Court's inherent powers under Section 528 of the BNSS.
- 13.** This Court, in exercising its inherent powers under Section 528 BNSS (formerly Section 482 CrPC), must always be mindful of the well-settled principles laid down by the Hon'ble Supreme Court of India. The power to quash criminal proceedings, though wide, is to be exercised sparingly and with caution, only to prevent abuse of the process of any Court or otherwise to secure the ends of justice.
- 14.** The seminal judgment in *State of Haryana v. Bhajan Lal*, AIR 1992 SC 604, provides an illustrative, though not exhaustive, list of categories of

cases where such inherent power may be exercised. Among these, two categories are particularly pertinent to the present case:

(a) 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.

(b) 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.

15. The principles reiterated in *Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque*, (2005) 1 SCC 122, emphasize that while the power under Section 482 CrPC is not to be used to stifle a legitimate prosecution, it is equally important to ensure that innocent individuals are not subjected to the rigors of an unwarranted criminal trial born out of malice. Further, in *Anand Kumar Mohatta v. State (NCT of Delhi)*, (2019) 11 SCC 705, the Hon'ble Supreme Court cautioned that where the factual foundation of the FIR is disputed by the accused, the Court has to consider whether the uncontroverted allegations in the FIR 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. The Court emphasized the need to prevent oppression and harassment by abuse of criminal process. The presence of a "cross-case" or "counter-blast" in criminal litigation is a factor that frequently invites scrutiny from higher courts. While the mere existence of a counter-FIR does not automatically lead to quashing, when the facts strongly suggest that the subsequent

FIR is a retaliatory measure, designed to settle a personal score rather than to genuinely report a crime, the Court must intervene to prevent abuse of process. The timing of the FIR, the inherent inconsistencies, and the alleged manipulation of investigation assume critical importance in such scenarios.

- 16.** Applying these principles to the facts at hand, the consistent narrative put forth by the Petitioner, coupled with the discernible chronological sequence of events, strongly suggests that the criminal proceedings against him are a direct consequence of a personal vendetta rather than a genuine grievance.
- 17.** Upon a careful perusal of the materials on record, particularly the FIRs annexed to the petition, several glaring aspects emerge. The most striking feature is the description of the October 28, 2023, incident within Opposite Party No. 2's own FIR (No. 469/2024). It meticulously narrates an event where she was present, involving the Petitioner and his friend, and an alleged assault where a male (identifying as Arindam Biswas) and a female were involved. This narrative, remarkably, mirrors the incident for which the Petitioner himself lodged FIR No. 2076/2023, merely casting the roles in reverse. Such a direct contradiction within the very documents presented by the prosecution, where the complainant's own statement appears to corroborate the alleged underlying retaliatory motive, raises a strong suspicion of malicious intent.
- 18.** The chronological sequence of events further strengthens the Petitioner's contention. The fact that Opposite Party No. 2's FIR was lodged on May

7, 2024, approximately one month after her elder brother, Arindam Biswas, secured bail on April 12, 2024, in connection with the Petitioner's FIR (No. 2076/2023), cannot be overlooked. This temporal proximity, coupled with the narrative overlap, strongly supports the Petitioner's contention that the present proceedings are a "counter-blast" to the legal action he initiated.

- 19.** The Petitioner's arguments regarding the absence of neutral witnesses, the lack of call record evidence for the alleged abusive calls (a central trigger for the May 5, 2024, incident), and the unexplained delay in reporting the October 30, 2023, incident appear to be well-founded at this preliminary stage. While these are matters that would typically be for trial, their cumulative effect, when viewed in conjunction with the other factors, adds significant weight to the claim of a false and improbable case. The absence of independent corroboration for allegations of public assault further undermines the credibility of the prosecution's case at this nascent stage.
- 20.** Furthermore, concerns about the investigating agency's conduct, particularly the awareness of the cross-FIRs and the involvement of the same police personnel as witnesses in both cases, cannot be dismissed lightly. The casual declaration of the Petitioner as "absent" and the subsequent, rather hasty, branding as "absconding" by the Learned Magistrate, without proper verification, reveals a concerning lack of diligence and adherence to procedural safeguards. The appearance of a biased or manipulated investigation, aimed at cornering one party, would certainly fall within the ambit of preventing abuse of process.

- 21.** The allegations, when viewed against the backdrop of the Petitioner's earlier FIR and the chronology of events, appear to be highly improbable and, *prima facie*, "manifestly attended with *mala fide*" and instituted with an "ulterior motive for wreaking vengeance." To allow the continuation of criminal proceedings in such circumstances would not only be a futile exercise but would also result in grave injustice to the Petitioner, subjecting him to the unnecessary ordeal of a protracted trial based on what appears to be a concocted story.
- 22.** The inherent power of this Court is not to be exercised lightly. It is a power reserved for exceptional cases where the continuation of a criminal proceeding would be a travesty of justice. Having meticulously examined the rival contentions, the FIR, the Charge Sheet, and critically, the Petitioner's counter-narrative fortified by his own prior FIR, this Court is left with an inescapable conclusion. The present criminal proceeding appears to be nothing short of a tool for harassment, an attempt to settle personal scores under the guise of criminal law. The allegations, when viewed against the backdrop of the counter-case and the questionable investigative process, become inherently improbable and manifestly tainted by *mala fides*. To allow such a proceeding to continue would be to sanctify the abuse of the legal machinery and inflict untold prejudice upon the Petitioner. Justice, in its truest sense, demands that innocent individuals are not subjected to the ignominy and rigors of a criminal trial based on fabricated charges driven by vengeance. This is precisely the kind of exceptional case where the

inherent power of this Court must be invoked to prevent such an abuse of process and to secure the paramount ends of justice.

- 23.** Therefore, the revisional application being CRR 201 of 2025 succeeds.
- 24.** Having given anxious consideration to the submissions made by the Learned Counsel for the Petitioner, and upon a thorough perusal of the petition, the annexed FIRs, and the charge sheet, this Court is of the considered opinion that the present case squarely falls within the principles enumerated by the Hon'ble Supreme Court for the exercise of inherent powers under Section 528 BNSS. The allegations against the Petitioner, in light of the counter-narrative and the strong indications of personal grudge and retaliatory motivation, lead to an inescapable conclusion that the criminal proceedings are an abuse of the process of law.
- 25.** Accordingly, the criminal proceedings against the Petitioner, Sri Soujanya Roy @ Soujanya Raj Roy, in G.R. Case No. 806/2024, arising out of Coochbehar Kotwali P.S. Case No. 469/2024, dated May 7, 2024, under Sections 341/354/323/506 of the Indian Penal Code, currently pending before the Learned Chief Judicial Magistrate Court at Coochbehar, are hereby quashed.
- 26.** CRAN 1 of 2025, stands disposed of, accordingly.
- 27.** There shall be no order as to costs.
- 28.** All interim orders, if any, stand vacated.
- 29.** Let a copy of this judgment be forwarded to the Learned Chief Judicial Magistrate, Coochbehar, for necessary action and compliance.
- 30.** The Case Diary, if any, be returned forthwith.

- 31.** Let a copy of this judgment be sent to the learned court below forthwith for necessary information and compliance.
- 32.** An urgent certified copy of this judgment and order, if applied for, be issued to the parties, as expeditiously as possible, upon compliance with all necessary legal formalities in this regard.

(Uday Kumar, J.)