

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

CRR 259 of 2025

Bishwanath Barman

Vs.

The State of West Bengal & Anr.

For the petitioner :Mr. Amitava Ghosh, Adv.

Mr. A. Das. Adv.

For the Opposite Party :Mr. Hillol Saha Poddar, Adv.

No. 2

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

Mr. Sourav Ganguly, Adv.

Heard On :28.07.2025

Judgment On :02.08.2025

Bibhas Ranjan De, J. :

1. This is an application under Section 528 read with Section 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as BNSS) assailing the order dated 10.04.2025 passed by the Ld. Additional Sessions Judge, 1st

Court (NDPS) cum Special Judge under SC & ST Act, Cooch Behar in connection with Special Case No. 09 of 2024 arising out of Tufanganj Police Station Case No. 712 of 2024 dated 01.09.2024 under Sections 3(1)(f)(g) of the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989 [hereinafter referred to as SC & ST (POA) Act] wherein Ld. Judge turned down the prayer of the protest petition filed by the petitioner for re-investigation.

Background:-

2. The genesis of the instant criminal prosecution is the written complaint dated 26.08.2024 lodged by the petitioner/defacto complainant to the Inspector in-charge of Tufanganj Police Station against the accused/opposite party no.2 which in turn gave rise to Tufanganj Police Station Case No. 712 of 2024 under Sections 3(1)(f)(g) SC & ST (POA) Act. The said case was assigned before Ld. Additional Sessions Judge, 1st Court cum Special Judge (SC & ST Act), Cooch Behar for adjudication.
3. The main grievance of the petitioner was that the accused/opposite party no.2 was in wrongful possession and ownership of land situated at Mouja Andaran Fulbari corresponding to JL No.71, Khatian no. 4826, LR Plot No.

9711. After completion of investigation, charge sheet was submitted against the accused under Sections 3(1)(f)(g) SC & ST (POA) Act. But the said charge sheet apparently did not disclose the real factual matrix in relation with the illegal and wrongful occupancy of land by the accused/opposite party no. 2, in consonance with the Order of the prescribed authority under Section 50(1)(f) of West Bengal Land Reforms Act, 1955 in connection with Misc. Case No. 64 of 2024 which was filed by the petitioner before the concerned B.L & L.R.O., Tufanganj-I.

4. Being aggrieved with such wrong mentioning of present status of land in question in the impugned charge sheet, the petitioner preferred a Narazi Petition with a prayer for re-investigation before the Ld. Additional Sessions Judge, 1st Court, who in turn after hearing the rival contentions of the respective parties rejected such prayer for reinvestigation vide the impugned order dated 10.04.2025. Being dissatisfied, hence this Revision.

Analysis with argumentative recourse:-

5. Ld. Counsel has vehemently contended that during the course of investigation, the Investigating Officer failed to meticulously

collect and examine the requisite documentary evidence necessary to accurately ascertain and determine the precise area of land lawfully possessed by the petitioner, particularly by making reference to the charge sheet wherein it stood documented that the petitioner maintained dominion over 0.0175 acres of land whilst the residual expanse of the said property remained under possession of accused in flagrant defiance of order of competent authority in the Misc. case being no. 64 of 2024 under Section 50 (1) (f) of the WBLR Act.

- 6.** Mr. Ghosh has further referred to the particular averments of the charge sheet with regard to injury sustained by Ajay Das and Prasenjit Barman.
- 7.** Mr. Ghosh has submitted that the documents pertaining to the inquiry report as well as injury report mentioned in the charge sheet has not been included in column 12 under the heading 'property description'.
- 8.** Drawing upon the aforesaid compelling grounds, Mr. Ghosh has earnestly beseeched this court to consider and grant an order of remand with a direction to rehear the "Narazi" petition filed on behalf of the petitioner on 17.02.2025.

9. Upon meticulous examination of the injury report, it becomes abundantly clear that no substantive allegation of assault has been disclosed therein, save for solitary matter pertaining to a territorial dispute over land occupation. Consequently, the injury report cannot, by any stretch of judicial reasoning, constitute a determinative factor in the adjudication of this revision application.

10. Mr. Sourav Ganguly, Ld. Counsel representing the State has respectfully submitted that the inquiry report, which stands duly referenced both in the charge sheet as well as in the proceedings pertaining to Misc. case no. 64 of 2024 under Section 50 (1) (f) of the West Bengal Land Reforms Act, 1955, has been meticulously procured by the investigating officer during the course of the official investigation conducted in accordance with established procedural norms, and consequently, the same may be legitimately relied upon by the prosecution as substantive evidence during the trial proceedings.

11. Ld. Counsel appearing on behalf of the petitioner has submitted that I.O has shown occupancy of lesser land portion of by the petitioner in the charge sheet though in the

proceeding in connection with Misc. Case No. 64 of 2024, the prescribed authority found that the petitioner/ Biswanath Barman was in possession of 0.005 acres in view of the inquiry report.

12. Mr. Ganguly has submitted that the order dated 04.07.2024 passed in the proceedings of Misc. Case No. 64 of 2024, was regrettably not recorded in consonance with the comprehensive inquiry report, which had duly been collected during course of investigation by the Investigating Officer in proper discharge of his official duties.

13. Upon conducting a detailed examination of the said inquiry report in question, as documented and filed within the case diary, this Court finds that the petitioner's actual land holding Comprises 0.0175 acres, thereby rectifying the figure mentioned in the order dated 04.07.2024 in connection with the proceeding of Misc. Case No. 64 of 2024 under Section 50(1) (f) of the West Bengal Land Reforms Act, 1955.

14. Now the question is that whether a document collected during investigation can be relied upon by the prosecution which is not mentioned in the list of documents in column 12 of the charge sheet.

15. The core principle derived from multiple judgments passed by the Hon'ble Apex Court, is that the prosecution is entitled to rely on any relevant document collected during investigation, even if it was not specifically listed in the charge sheet or the list of relied-upon documents. The Supreme Court in several cases clarified that the prosecution can produce additional evidence at a later stage, provided it is relevant and material, and that non-disclosure at the initial stage does not bar its subsequent reliance, especially if it is of sterling quality or of crucial importance.

16. A document collected during investigation can be relied upon by the prosecution even if it is not explicitly mentioned in the list of relied-upon documents in Column 12 of the charge sheet, provided the prosecution intends to rely on it and it is relevant to the case. However, the prosecution must adhere to procedural requirements, notably furnishing the document to the accused if the court deems it necessary for a fair trial, and ensuring that reliance on such a document is appropriately established and for that reason, in my humble opinion, no further investigation is required.

17. As a sequel, I find hardly any reason to interfere with the order impugned in this revision application
18. Wherefore, the instant revision application no. CRR 295 of 2025, being found entirely destitute of merit and wanting in all legal virtue, stands dismissed.
19. Connected applications, if there be any, stand disposed of accordingly.
20. All parties to this revision application shall act on the server copy of this order downloaded from the official website of this Court.
21. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

[BIBHAS RANJAN DE, J.]