

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

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

C.R.R 308 of 2023

**Utpal Kumar Ray
-Vs-
The State of West Bengal**

For the Petitioner : Mr. Utpal Kumar Ray (In person)

For the State : Mrs. Aditi Shankar Chakraborty, Ld. APP
Mr. Aniruddha Biswas, Ld. Adv.

Hearing concluded on : 09.01.2025

Judgment on : 10.01.2025

Uday Kumar, J: -

1. This revisional application is preferred under Section 397/401 of the Code of Criminal Procedure, 1973 to challenge the legality, propriety and correctness of the order dated 3rd October, 2023 of Learned Judge, Special Court under SC/ST (Prevention of Atrocities) Act, 1989 –cum- Additional District Judge, Cooch Behar passed in connection with Misc. Case No. 01/2023.
2. Briefly, the petitioner belongs to a member of SC/ST category and he has a piece of agricultural land besides a primary school -Natya Sangha Prathamik Vidyalay situated at Village – Khagrabari under P.S – Pundibari. It is the allegation of petitioner that excreta, sewage and

obnoxious substances are usually and regularly dumped in his said agricultural land, intentionally to cause injury, insult and annoyance to the petitioner and they are wrongfully occupying the part of his land knowingly that petitioner belonged to a member of SC/ST community. After repeated request they continued dumping excreta in his field. As such he lodged a written complaint to the Pundibari Police Station on 27th February, 2023 that Head Mistress of the said primary school making illegal construction on some part of his plot being no. 3938, Mouza – Khagrabari, J.L. No. 89 and draining waste materials in his pond close to the said primary school. He forbade previous Headmistress for not repeating the same in future. The present headmistress engaged a contractor for some construction works in the said school. The contractor garbaged some waste materials on his land without his permission. Despite his warning to the contractor he saw that some obnoxious substance was lying near his pond on 26th February, 2023 at around 10 a.m. to cause him mischief. The neighbours Utpal Ray, Sujit Sarkar and Swapna Ray witnessed the garbage piled in cement bags. They intentionally dropped obnoxious substances in his land to cause annoyance to him due to his lower social status of SC/ST. So, he requested to initiate a criminal proceeding against headmistress under relevant Sections of SC/ST Act and IPC but police did not take action on his written complaint. Thereafter, he complained against the Officer-in-Charge of Pundibari Police Station for not registering FIR.

3. He filed a complaint on 27th February, 2023 to Pundibari Police Station and he filed another complaint to Superintendent of Police against inaction of Pundibari Police Station in registering FIR on 20.03.2023. As a result thereof, DSP (Headquarter) called him to record his statement on 23rd March, 2023. Petitioner received inquiry report (vide Memo 290/CRM dated 13.06.2023) from the office of Deputy Superintendent of Police (Crime), Cooch Behar submitted in connection with the complaint dated 27th February, 2023 vide Memo No. 290-CRM dated 13.06.2023. Thereafter, he filed an application under Section 14(1) of the SC/ST (Prevention of Atrocities) Act, 1989 to the Learned Special Court of the ADJ, 1st Court, Cooch Behar on 31st July, 2023 for an order of an administrative inquiry in connection with serious dereliction of legal and administrative duties on the part of the concerned police authority in the case and take cognizance upon receiving the inquiry report *“on the ground that District Magistrate has not performed statutory administrative duty as per Section 4(2)(g) of SC/ST (Prevention of Atrocities) Act, 1989”* and that District Magistrate, Cooch Behar has omitted administrative duty in connection with rights and entitlement of victim petitioner empowered under Section 15 (A) (11) (a) and 15(A) (11) (d) of the SC/ST (Prevention of Atrocities) Act, 1989 as petitioner did not receive the copy of the FIR free of cost and did not receive any relief in respect of damage caused to his property by unlawful acts of the accused persons and that District Magistrate, Cooch Behar has not taken necessary measures as provided under Rule 12 (1) (5)(6)(7) of SC/ST (Prevention of Atrocities) Act and Rules,

1995 and Rule 8 of 2016 regarding arrangements and providing specified relief to the victim of atrocities according to the scale provided in SC/ST (Prevention of Atrocities) Act, 1989.

4. As District Magistrate, Cooch Behar did not perform his statutory administrative duty and was unable to take action against erring police officer who did not register FIR. He made State of West Bengal represented by District Magistrate, Cooch Behar – accused in his case, as stated to the Court of Learned Special Judge at Cooch Behar on 3rd August, 2023.
5. Thereafter, a criminal Misc Case No. 1 of 2023 has been registered on 19th August, 2023 on the basis of his application dated 3rd October, 2023.
6. The said petition was dismissed by Learned Special Judge vide order No. 5 dated 3rd October, 2023. After considering the photocopy of written complaint dated 27th February, 2023 addressed to Officer-in-Charge of Pundibari P.S., replies of S.P.I.O. of the Office of Superintendent of Police, Cooch Behar on 13.6.2023, 3.7.2023 in response of RTI application made by the petitioner, written complaint dated 20.3.2023 addressed to Superintendent of Police, Cooch Behar, notice given to petitioner dated 22.3.23 by DSP (Hq.), Cooch Behar, inquiry report dated 11.6.2023 of Pundibari P.S, Khatian of the land of the petitioner and the affidavit and finds that no documents pertains to inaction on the part of the District Magistrate, Cooch Behar on the matter agitated by the petitioner and the document did not show that

petitioner had ever approached the District Magistrate on any occasion to ventilate his grievance. Accordingly, the Special Judge came on the conclusion that the petitioner has failed to show why an administrative inquiry under the proviso given in Section 4(2) of SC/ST (Prevention of Atrocities) Act, 1989 be made upon District Magistrate, Cooch Behar as prayed for in his petition dated 3rd August, 2023. As such, he dismissed the petition and criminal Misc. Case 1/2023 has been disposed of accordingly.

7. The petitioner submits that Learned Special Court did not take cognizance of the offence on his petition as such the order suffers from illegality, irregularity and impropriety required to be set aside and prays for necessary direction.
8. Learned Advocate for the State submits that there is no specific act or omission stated by the petitioner in his complaint which may constitute any specific offence under the SC/ST (Prevention of Atrocities) Act, 1989 and he make omnibus prayer to take cognizance of the under SC/ST (Prevention of Atrocities) Act, 1989 on the basis of the statement made in his complaint. In the state of vagueness the order of Learned Special Judge suffers from no illegality. He further submitted that by impugned order the Criminal Misc. Case 01/2023 has been finally disposed of. Thus, it is final order, it would not come under interlocutory order against which appeal will as per the provision of Section 14(A)(1) which provides that *“notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie, from any judgment, sentence or order, not being an interlocutory*

order, of a Special Court or an Exclusive Special Court, to the High Court both on facts and on law.”

9. Since the order is not an interlocutory in nature, the appeal will lie and revision would not be maintainable. As such, he prays for the dismissal of this revisional application alongwith liberty to the petitioner to take necessary steps as per law. It is fact that petitioner belongs to SC/ST authority. It is also a fact that his land and pond lying adjacent to the said primary school. Petitioner admitted that constructions of wall started on his land, is stopped now. It also appears from the documents submitted by petitioner alongwith his revisional application that no material is available on record to show inaction on the part of the office of District Magistrate.
10. On the other hand, DSP (Hq) recorded his statement and supplied a copy thereof to him. Learned Special Court considered all the relevant documents and dismissed the Criminal Misc. Case No. 01/2023 and finally disposed of the Criminal Misc. Case No. 01/2023 by his order dated 3rd October, 2023.
11. However, competent authority is duty bound to extend their lawful support to the petitioner, in event of any act of atrocity, as stated by him.
12. In view of the provision of Section 14(A), petitioner may prefer appeal before the proper forum.
13. Considering the above facts and circumstances, I am of the view that this revisional application is not maintainable in its present form. As such, is liable to be dismissed as not maintainable.

14. Accordingly, CRR 308 of 2023 is disposed of.
15. There is no order as to the cost.
16. Interim order/orders, if any, stand vacated.
17. Urgent Photostat certified copy of this judgment, if applied for, be given to the parties, as expeditiously as possible, upon compliance with the necessary formalities in this regard.

(Uday Kumar, J.)