

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

PRESENT:

THE HON'BLE JUSTICE TIRTHANKAR GHOSH

CRR 474 of 2024

With

CRAN 2 of 2025

Raju Sarkar & Ors.

versus

The State of West Bengal & Anr.

For the Petitioners	: Mr. Ranadeb Sengupta, Mr. Debasish Mukhopadhyay, Ms. Madhushri Dutta.
For the State	: Mr. Nilay Chakraborty, Ld. APP Mr. Sagnik Sankar Sikdar.
For the Opposite Party No.2	: Mr. Bikramaditya Ghosh, Mr. Subrata Sarkar.,

Heard on : 12.06.2025 & 17.06.2025.

Judgement On : 20.06.2025

Tirthankar Ghosh, J. :

The present revisional application has been preferred challenging the proceedings relating to Maynaguri Police Station Case No. 422 of 2024 dated 18.09.2024 corresponding to G.R. Case No. 4694 of 2024 including the charge sheet filed therein against the petitioners and others.

The genesis of the present case relate to the FIR registered at Maynaguri Police Station which was initiated on the basis of a letter of complaint submitted by the Subhradeep Das addressed to the Inspector-in-Charge, Maynaguri Police Station.

The allegations made by the informant in the letter of complaint were to the effect that the informant's mother, namely, Rumpa Das and his father Lt. Swayambhu Das were married on or about 26.01.2000 as per Hindu Rites and Customs. In the year 2006 the informant's father was ill and eventually got paralysed which led to their financial distress. The relations being Pradip Das and Dilip Das and his wife Ratna Das physically and mentally tortured them. Even Pradip Das tried to establish an illicit relationship with his mother. Unable to bear such torture the informant's mother had to leave the matrimonial home along with the informant, when he was five years old. In 2011 informant's father passed away, when they were not informed. The informant states that his grandfather was the owner of a land bearing Dag No. 2267, Khatian No. 4368, Area 17 Decimal, Mouza- 036 Dakshin Mouamari, Block-03, Maynaguri, District Jalpaiguri. After the informant's grandfather and grandmother passed away the relations by omitting the informant's name from the property got the said property registered in favour of others by using fake documents. One of the relation after the misdeed fled away to USA. It has further been alleged that the buyers conspired with the informant's relations to deprive him from the paternal property.

On the basis of the aforesaid complaint Maynaguri Police Station Case No. 422 of 2024 dated 18.09.2024 was registered for investigation and on conclusion of investigation, charge-sheet was submitted before the jurisdictional Magistrate. The name of all the petitioners appear as charge-sheeted accused.

Mr. Sengupta, learned advocate appearing for the petitioners submits that the petitioner nos. 1 to 4 are bona fide purchasers of the property and have purchased the same by paying the market value to the vendors and the title deed of the property would reflect that whole of the transaction was by way of payments made through bank. It was further contended that the beneficiary in respect of such sale of the property are relations of the informant/opposite party no. 2 and if the informant has been deprived the same is by his relations who are the other accused persons in the charge-sheet and are not a party to the present revisional application. Learned advocate further submitted that petitioner no. 5 is the person who identified all the persons at the time of registration of the property. It was thus submitted that no case for cheating, criminal breach of trust or conspiracy is made out against the petitioners.

Learned advocate for the de-facto complainant on the other hand submitted that as the charge-sheet has been submitted by the police authorities after a thorough investigation and a case has been made out so far as the present petitioners are concerned, terminating the proceedings at this stage may result in miscarriage of justice.

Learned advocate for the State produced the Case Diary as well as drew the attention of the Court to the statement of witnesses and submitted that since the Investigating Agency has arrived at a conclusion thereby charging the present petitioners for commission of offences, they should be asked to face the regular procedure of the criminal Court before any conclusion is reached.

I have considered the submissions advanced by the learned advocate appearing for the petitioners, the informant/de-facto complainant/opposite party no. 2 as well that of the State. From an appreciation of the records of the case I find that the petitioner nos. 1 to 4 purchased the property at a market rate from the relations of the informant/de-facto complainant as such the charges of Section 406 and Section 420 of the Indian Penal Code are not applicable to them. So far as the issue relating to conspiracy is concerned, the same is restricted to depriving the informant/de-facto complainant. If the informant in the given set of circumstances is deprived the same is at the behest of the vendors and the petitioner nos. 1 to 4 who have paid the market price of the property, cannot by any stretch of imagination be foisted with a case of entering into a conspiracy for depriving the informant/de-facto complainant/opposite party no. 2. However, so far as the petitioner no. 5 is concerned the same principle do not apply to him as he has identified the vendors as well as the buyers.

In *Rajiv Thapar -Vs. - Madan Lal Kapoor*, (2013) 3 SCC 330, the Hon'ble Supreme Court has been pleased to set out the rules for consideration of application of Section 482 of the Code of Criminal

Procedure, paragraph 30 of the said judgment is relevant for the said purpose which is quoted below :-

“30. *Based on the factors canvassed in the foregoing paragraphs, we would delineate the following steps to determine the veracity of a prayer for quashment raised by an accused by invoking the power vested in the High Court under Section 482 CrPC:*

30.1. *Step one: whether the material relied upon by the accused is sound, reasonable, and indubitable i.e. the material is of sterling and impeccable quality?*

30.2. *Step two: whether the material relied upon by the accused would rule out the assertions contained in the charges levelled against the accused i.e. the material is sufficient to reject and overrule the factual assertions contained in the complaint i.e. the material is such as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false?*

30.3. *Step three: whether the material relied upon by the accused has not been refuted by the prosecution/complainant; and/or the material is such that it cannot be justifiably refuted by the prosecution/complainant?*

30.4. *Step four: whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?*

30.5. *If the answer to all the steps is in the affirmative, the judicial conscience of the High Court should persuade it to quash such criminal proceedings in exercise of power vested in it under Section 482 CrPC. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as proceedings arising therefrom) specially when it is clear that the same would not conclude in the conviction of the accused.”*

The Hon'ble Supreme Court in Haji Iqbal –Vs. – State U.P., (2023) 20 SCC 209 was pleased to also lay down the duty of a Court while assessing an application under section 482 of the Code of Criminal Procedure vis-a-vis the accusations made in the letter of complaint as well as the charge-sheet. To that effect, paragraphs 15, 16 and 17 of the said judgment are relevant which is set out as follows :-

“15. *At this stage, we would like to observe something important. Whenever an accused comes before the court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the court owes a duty to look into the FIR with care and a little more closely.*

16. *We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc. then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not.*

17. *In frivolous or vexatious proceedings, the court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The court while exercising its jurisdiction under Section 482CrPC or*

Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.”

Having regard to the principles settled by the Hon’ble Supreme Court and in the light of the observations made above, on an overall assessment of the factual foundation and circumstances of the present case, this Court is led to an irresistible conclusion that the continuance of the proceeding against the petitioner nos. 1 to 4 is bound to degenerate itself into a weapon of harassment, as such in order to secure the ends of justice, the proceedings against the four petitioners is required to be quashed. However, the proceedings against the petitioner no. 5 should continue in the factual background of the case.

Conclusion :-

- (i) Thus all further proceedings in connection with Maynaguri Police Station Case No. 422 of 2024 corresponding to G.R. Case No. 4694 of 2024 is hereby quashed against (1) Raju Sarkar; (2) Nirmal Dey; (3) Kamal Dey and (4) Prabir Biswas.

- (ii) So far as the case against petitioner no. 5 namely, Sajjat Hussoin @ Hossain is concerned the same should continue and the trial be taken against him to its logical conclusion.
- (iii) However, this would not prevent the learned Trial Court to pass appropriate orders under Section 319 of the Code of Criminal Procedure, if at a subsequent stage, materials surface against petitioner nos. 1 to 4.

Accordingly, CRR 474 of 2024 is **partly allowed**.

Pending connected application(s), if any, be consequently disposed of.

Certified copy of the case diary be returned to the learned advocate appearing for the State.

All concerned parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

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

(Tirthankar Ghosh, J.)