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Ct.29

12.03.2026

Bd.

CRR 39 of 2026

Jitendra Gorakh Megh

-vs-

The State of West Bengal & Anr.

Mr. Jitendra Gorakh Megh ... Petitioner in person.

Affidavit of service filed by the petitioner is taken on record.

In spite of service Private opposite party is not represented.

The petitioner herein has prayed for quashing of the criminal proceeding arising out of Complaint Case No. CS/342910 of 2025 presently pending before learned 11th Judicial Magistrate, Kolkata.

The petitioner states that the opposite party no. 2, Shaha Finlease Pvt. Ltd. is a registered Non-Banking Financial Company who has lodged the complaint alleging that the petitioner visited the office of the complainant company in Kolkata and had approached for issuance of a credit card and that the credit card was sanctioned based on that visit.

Being aggrieved by the proceeding the petitioner submits that petitioner never visited Kolkata at any point of time, nor has he ever visited the alleged address of opposite party no. 2. He is a permanent resident of Mumbai since 1986 and has never carried on any business, residence or financial transaction within the territorial jurisdiction of Kolkata. It is submitted that the alleged credit card is stated to have been issued to the petitioner by Standard Chartered Bank, Mumbai, which was assigned to opposite party no.2 by a deed of Assignment executed at Mumbai.

However, the dispute is purely civil in nature. The aforesaid deed of assignment dated 09.02.2010 was executed at Mumbai long after the alleged debt had become time-barred. He further submits that the allegations in the complaint are false, fabricated and have never occurred. If the allegations made in the complaint are taken in its entirety it discloses a civil dispute and does not attract any criminality. The initiation of the impugned complaint case by the opposite party no. 2 in respect of an alleged credit card stated to have been issued in the year 1998 and the complaint has been filed after lapse of 27 years of the alleged transaction. However, the court below has taken cognizance without application of judicial mind, which is not sustainable in the eye of law and therefore further continuance of the impugned proceeding will be a mere abuse of the process of the Court.

I have gone through the order taking cognizance and it appears that on 19th September, 2025 the petitioner herein had filed the complaint before the court below when the case was transferred to JM, 11th Court for proceeding under section 223 of the BNSS. By a subsequent order dated 22.09.2025 the court below has issued pre-cognizance notice upon the suspect/petitioner for being heard before taking cognizance.

By the order dated 16.10.2025 the court below on the basis of the postal receipt had drawn a presumption in terms of section 27 of the General Clauses Act, that the notice of pre-cognizance hearing presumed to have been served upon the suspect/petitioner and accordingly he took cognizance and

proceeded for issuance of process under sections 61(2)/316(2)/313/321 of the BNSS.

The grievances ventilated herein by the petitioner is that notice regarding pre-cognisance hearing was never served upon him and if it was served, he could have represent his contention that allegations levelled in the complaint does not constitute offence upon which Court can take cognizance. However the court below had drawn a wrong presumption that said notice was duly served upon the suspect/petitioner taking aid from section 27 of the General Clauses Act.

In such view of the matter since it prima facie appears that object of pre-cognizance hearing got frustrated in this case, might be due to wrong presumption, drawn by the Court below.

In such view of the matter, the instant application being CRR 39 of 2026 is hereby disposed of by setting aside the order taking cognizance dated 13.10.2025 and the subsequent orders.

The court below is directed to issue fresh notice regarding pre-cognizance hearing at the proper address of the petitioner and thereafter on being satisfied about proper service of the pre-cognizance notice upon the suspect/petitioner he will be at liberty to proceed further in accordance with law under the BNSS, without being influenced by any observation made herein.

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

(Dr. Ajoy Kumar Mukherjee, J.)