

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

Present:-

HON'BLE JUSTICE CHAITALI CHATTERJEE DAS.

CRR 302 OF 2023

RANADEB ROY CHOWDHURY

VS.

THE STATE OF WEST BENGAL & ANR.

For the Petitioners : Mr. Swapan Kumar Mallick, Adv.
Ms. Sudeshna Das, Adv.

For the Opposite Party : Mr. Kallol Kumar Basu, Adv.
Md. Jannat UI Firdous, Adv.
Mr. Rajsekhar Hota, Adv.

For the State : Mr. Rudradipta Nanady, Adv.
Mr. Saryati Dutta, Adv.

Last heard on : 27.02.2026

Judgement on : 13.05.2026

Uploaded on : 13.05.2026

CHAITALI CHATTERJEE DAS, J. :-

1. This Revisional Application has been filed for quashing of the entire proceeding being case no. 343 of 2021, pending before the court of Learned 2nd Judicial Magistrate, Basirhat, 24 Parganas under Section

448/323/354/379/504/506/34 of the Indian Penal Code. The Revisional Application is filed against an order dated 21.11.2022 and all subsequent orders passed in the complaint case.

Brief Fact of the case

2. The fact of the case in brief is that the opposite party no 2 filed a complaint under Section 200 of the Code of Criminal Procedure before the learned Additional Chief Judicial Magistrate, Basirhat, North 24, Parganas, alleging inter alia that in the year 2019, he received a power of attorney from the present petitioner and his two brothers which was registered on 23.7.2019 before the ADSR, Basirhat. The petitioner and his two brothers allegedly received Rs. 3 lakhs and issued receipt. On 23.7.2019 at about 4.30 p.m. the petitioner along with 5/6 others came to his house and started abusing them with filthy languages. On being protest, the petitioner and his associates assaulted him with fist and blows and asked for money for his land. When the complainant's wife tried to resist her, her modesty was outraged and an amount of Rs. 1280 was snatched away from his pocket. It was further alleged that while leaving, they also threatened them with dire consequences.

It is the case of the petitioner that he lodged a criminal complaint before the officer in charge, Bashirhat Police Station on 23.7.2021 against the present opposite party No.2 with an allegation that on 23.7.2019, he along with his brothers executed one Development power of attorney with Opposite Party no. 2 for 37.5 decimal of land. It was agreed that the said land would be utilised only for the development and for agricultural purpose but 66 satak of land was fraudulently sold to another person in lieu of Rs.40 lakhs.

3. On receipt of such complaint, Bashirhat Police Station case no. 505/2021 dated 23.7.21, under Section 468/471/420/406 of the Indian Penal Code started. The Opposite Party no. 2 was arrested in connection with the above case on 27.08.21 and released on ad-interim bail on 2.9.2021. A civil suit was also filed by the petitioner and his two brothers after lodging such FIR and the said suit is now pending before the Civil Judge, Senior Division, Basirhat, North 24 Parganas, where an interim injunction order has been passed on 20.5.2022 in their favour.

4. After such complaint was filed by the opposite party no.2 on 18.9.2021, the cognizance of the offence was taken on that day and it was transferred to the Court of learned Judicial Magistrate, 2nd court, Bashirhat, North 24 Parganas for disposal. After that, the said case was adjourned from time to time and on 21.11.2022, the Opposite Party no. 2 was examined under Section 200 and process was issued fixing the returnable date on 2.2.2023. Hence this Revisional application is filed.

Submissions

5. It is submitted by the learned advocate that the instant case has been filed out of vengeance and is a counterblast to the civil suit as well as the criminal case lodged by the petitioner for which the Opposite Party no. 2 had to undergo imprisonment for considerable period. It is also submitted that the allegations levelled against the petitioner under Section 448/323/354/379/504/506/34 of the Indian Penal Code are false and vexatious and on the face of it are so improbable that it does not attract any of the sections. It is further contended that the fraud actually has been committed by the Opposite Party no. 2, which

is already being investigated by the officials of the concerned police station, and hence the present case is liable to be quashed. The learned Advocate further argued that the complaint is filed after a long delay without complying of Section 154(3) of Cr.P.C and /or giving any cogent explanation. It is further argued that the date of incident differs while examining under S.A and the date mentioned in the complaint. But the Learned Magistrate failed to apply his judicial mind while took the cognizance and issued the process. Accordingly, prayed for quashing of the proceeding as it would be an abuse of the process of law if allowed to be continued.

6. Per Contra it is the contention of the prosecution that the cognizance was taken by the Learned Court as primary materials were available and accordingly issued process against all concerned in order to dig out the truth. The inimical relationship existed between the parties and hence the petitioner must face the court.

7. The learned Advocate representing the opposite party no. 2, on the other hand argued that after recording initial deposition, the cognizance was taken by the court after being satisfied about the existence of materials and thereafter considered the initial deposition. The nature of allegation is serious enough and hence the prayer for quashing should not be entertained.

Analysis

8. Having heard the learned advocates and on perusal of the materials it appears this Revisional Applications has been filed by the petitioner as arrayed an accused in the F.I.R and a separate Complaint is lodged against the brother of

the petitioner in the similar manner and against which his brother has filed the Revisional Application being CRR 4828 of 2023.

- 9.** The allegations levelled against the petitioner are under Section 448/323/354/379/504/506/34 of the Indian Penal Code. From the record and the submissions made before this court, it is found that before Basirhat Police Station the present petitioner lodged a complaint against the present opposite party no. 2 under Section 468/471/420/406 on 23rd July, 2021 alleging forgery and misappropriation of money on the strength of a Development Power of Attorney was executed between Opposite Party no. 2, and the petitioner and his brother, where it was clearly stated that the land will be utilised only for the development and of agricultural purposes under their advice. The accused assured them to discharge his duty as attorney holder with utmost honesty and transparency and the said Power of Attorney was registered on 31st July, 2019. Subsequently, at the time of submission of ITR filing for the financial year 2020–2021, he found that 10 transactions of Rs. 6, 66, 620 each dated 24.6.2020 was shown in 26AS against his PAN. The petitioner being a citizen of 74 years and a retired person bewildered by such huge transaction in his account, and after conducting necessary enquiry, came to suspect that the opposite party No.2 made fraudulent transaction in his name and with his PAN on the strength of power of attorney. He fortunately sold out 66 satak land amounting Rs. 40 lakhs to one Prasenjit Dey.
- 10.** In the complaint under section 200, CR.P.C lodged by the opposite party no.2 in respect of an incident on 23.7.2020 before the ACJM Bashirhat it was alleged that on 23.7.2019, the power of attorney was registered, which was

executed by Ranadeb Chowdhury, the petitioner herein, Shri Jyotirmoy and Rai Chowdhury, and on 28.7.2019 an amount of Rs. 3 lakhs was received by them by giving receipt.

11. Prima facie it is found from the written complaint that the allegation was against the petitioner along with 5/6 unknown persons without specifying any specific overt act attributed by any of them as to whom and in which manner assaulted him. The incident was of 23.7.2020 when the complaint was lodged on 18.9.2021 that is about 14 months after the incident. The complaint was affirmed by an Affidavit where he stated that though the entire incident was intimated to the police official, no action was taken against him and hence the complaint was lodged before the court. No averment was made in the petition and the learned Magistrate took cognizance on the same day 18.9.2021 without assigning any reason for taking such cognizance and transferred the matter to the learned Judicial Magistrate, 2nd Additional Court, Bashirhat for disposal. The complainant was present on 21.11.2022, when the complainant was examined on SA under Section 200 Cr.P.C. The learned Court considered the initial deposition, the petition of complaint and was of the view that there is sufficient ground to proceed against the accused persons for the offences punishable under the aforesaid sections, accordingly issued process.

12. In the case of ***Umashankar Yadav and another versus State of Uttar Pradesh, through Chief Secretary and another***¹ the Hon'ble Supreme Court in paragraph 11 observed;

¹ 2025 INSC 653

“11. Summoning of an accused is a serious matter which affects liberty and dignity of the individual concerned. Judicial intervention under Section 482 CRPC to weed out vexatious proceedings is of pivotal importance in order to protect individuals from untelling harassment and misery and to ensure unmerited prosecutions do not crowd overflowing dockets of criminal quotes and yield space for deserving cases. Faced with the agony of a lame prosecution, it is of little solace to a litigant to be told that inherent powers are shut out as he is entitled to approach the trial court and pray for discharge. The inherent power of the High Court to prevent abuse of process of court is much wider in amplitude than the discharge powers and cannot be whittled down on the play of existence of such remedy (Ashok Chaturvedi and others versus Shitul H. Chanchani and Anr. (1998) 7 SCC 698.”

13. In the given case, the complaint was filed on 18.9.2021 and on that day, the cognizance of offence was taken and was transferred to the Judicial Magistrate, 2nd Additional court for disposal where after several dates were fixed on 21.11.22, the opposite party No.2 was examined. While initial deposition was made by the complainant, no whisper was made about any civil proceeding which has been lodged against them by the petitioner and obtained an order of interim injunction. No explanation was given regarding such long delay and what prompted the complainant to mention the same in the affidavit portion without stating in the body of the petition of complaint. The present petitioner is a septuagenarian person and an allegation of altercation along with physical assault was mentioned in addition to outraging modesty to the

wife of the petitioner by pulling her sari. Nothing was mentioned regarding any medical paper to establish the assault. More importantly, no statement regarding intimation immediately after such incident to any police station can be found from the four corner of the said complaint and the delay of 14 months remained unexplained. It is pertinent to mention that he alleged not only against the petitioner but also 5/6 person without giving any description of them and describing any overt act or the role attributed by the alleged persons. It is apparent that there existed an inimical relationship between the parties and on the basis of complaint lodged by the present petitioner the opposite party No.2 was taken behind the bar. Furthermore the petitioner assailed an allegation of fraud and misrepresentation on the strength of Power of Attorney against the opposite party and he was arrested in connection with the said case.

14. In the case of *Inder Mohan Goswami and Another vs State of Uttaranchal & ors*², it was emphasized that the criminal prosecution must not be permitted as an instrument of harassment or private vendetta. Similarly in the case of *Suryalakshmi cotton mills ltd vs Rajvir industries ltd and Ors*.³ it was held that where the defence relies upon an impeachable uncontroversial evidence of sterling qualities such as the documents of undisputed authenticity those documents can be considered.

15. The jurisdictional point raised in the petition is not applicable as the alleged incident happened within the jurisdiction of Basirhat Court. In the decision

² (2007) 12 SCC 1

³ (2008) 13 SCC 678

reported in ***Sanjay Kumar Rai versus State of Uttar Pradesh and other***⁴ as relied upon by the petitioner the CJM took cognizance of the matter well before framing of charge and the applicant sought his discharge under Section 239 Cr.P.C and the said order was not considered against which the application was filed for reversal of such order. The revisional application was dismissed against which the Special leave petition was filed before the Hon'ble Supreme Court. The point was raised regarding limited scope of a criminal revision to jurisdictional error alone. However this decision is distinguishable on factual score.

16. Accordingly on consideration of all the facts and circumstances and the inimical relationship between the parties, prolong delay in lodging complaint without assigning any reason thereafter and that the OP No. 2 is an accused in connection with a case of forgery and cheating prima facie established that it is an afterthought out of grudge.

17. Therefore on close consideration of the entire gamut of the case it appears that the present case is fully covered by categories (1) and (5) & (7) as enumerated in ***State of Haryana and Others v. Bhajan Lal and Others***⁵. A bare perusal of the complaint on the basis of which FIR came to be registered at the instance of the de-facto complainant/ opposite party no.2 does not disclose any act of the present appellant or his participation in the commission of crime as alleged .Accordingly this proceeding is liable to be quashed qua the petitioner .

⁴ 2021 SCCOnLine SC 367

⁵ 1992 Suppl (1) SCC 335

Concluaion

18. Hence this C.R.R 302 of 2023 is hereby allowed .The entire proceeding pending before the learned Court of 2nd Judicial Magistrate, Basirhat, North 24 Parganas being Complaint case no. 343 of 2021 is hereby quashed qua the petitioner.

19. All other connected applications are hereby disposed of.

20. The criminal Department is directed to forward the copy of this order to the concerned court for information and necessary action.

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

[CHAITALI CHATTERJEE (DAS), J.]