

06.04.2026

Sl. No.19.

M/L.

Mithun.

Ct.No.29.

CRR/409/2026

**Amaan Deep Gupta @ Aman Gupta
Vs.
State of West Bengal & Anr.**

Mr. Krishnendu Bhattacharya,
Mr. Akash Ganguly,
Ms. Sneha Ghosh

...for the petitioner

Mr. Kiran Sk,
Ms. Suparna Dutta,
Ms. Tusi Naskar

...for the private respondent/de facto complainant

Mr. Suman De,
Mr. Manoranjan Mahata

...for the State

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

Petitioner has been arraigned as an accused person in impugned proceeding being G.R. No.662 of 2025 arising out of Burtolla Police Station Case No.104 of 2025 under Sections 115(2)/126(2)/351 of the BNS, 2023 which is presently pending before learned Additional Chief Judicial Magistrate, Calcutta.

The *de facto* complainant being opposite party no.2 herein filed a written complaint on 11.06.2025 alleging, *inter alia*, that while he was passing through the road he noticed two persons namely Vishal Jaiswal and Manish Jaiswal stuck behind petitioner's car. The petitioner herein along with his mother then got down from the car and started hurling abusive languages and has threatened the said persons and also started beating them. When the *de facto* complainant interfered he was also assaulted.

Being aggrieved by the aforesaid proceeding, learned Counsel for the petitioner submits that on 10.06.2025 , i.e. on the previous date at about 5:30 P.M. the petitioner and his mother were returning home riding a vehicle bearing registration No. WB02 AU-2128. The said persons named Vishal Jaiswal and Manish Jaiswal recklessly rammed their scooter into the petitioner's vehicle. The petitioner questioned the above-mentioned persons as to why they had rammed their scooter into their vehicle, they aggressively grabbed the petitioner and subjected him to physical assault, striking him with their fists and kicks and continued to beat him even after he fell to the ground. The accused persons procured a substantial sized bamboo stick and began landing blows on the petitioner's occipital region, causing significant trauma. Additionally they targeted the petitioner's left toe, striking it with such force that it resulted in a severe rupture, leading to profuse bleeding. Moreover, one of the accused persons assaulted the petitioner with a sharp cutting weapon, striking him on the right side of the abdomen, which further led to excessive bleeding. When the mother of the petitioner raised protest the accused persons obnoxiously raised their hands on the petitioner's mother outraging her modesty in front of sizeable public and further physically assaulted her. Over the said incident Burtolla P.S. Case No.103 was started prior to lodging the instant FIR.

Petitioner's Counsel further submits that the present FIR is the counterblast of the FIR lodged by the present petitioners as above being Burtolla Police Station Case No.103 of 2025 dated 11.06.2025. If the two FIRs are kept side by side, it appears that the instant FIR has been lodged by the petitioner with primary motive to seek vengeance upon the petitioner. In fact, it is an attempt to retaliate against the petitioner for exercising his legal rights. Therefore, learned Counsel for the petitioner

submits that further continuance of the impugned proceeding will be mere abuse of process of the Court though the police has already submitted charge-sheet after making a perfunctory investigation.

Learned Counsel appearing on behalf of the *de facto* complainant raised objection to such prayer.

Learned Counsel appearing for the State, Mr. De leaves the prayer of the petitioner to the discretion of the Court

I have perused the materials available in the Case Diary collected during investigation, wherefrom it appears that during investigation, prosecution has recorded statement of four witnesses but they have not stated anything which may constitute any cognizable offence, far from the offence alleged in the written complaint against the present petitioner. In the statements allegations were made against unknown unidentified persons. Furthermore, from the injury report collected during investigation in respect of the *de facto* complainant's injury, it appears that Medical Officer has noted that "*according to the patient he was beaten by two local hooligans at about 5:30 pm on 10.06.2025 following quarrel.*" It further appears that a blunt injury and a cut injury was noted by the Medical Officer though he has not noted the name of any assailant.

Though Mr. De, learned Counsel for the State made a submission that the petitioner has right to put all such argument at the time of framing of charge and therefore, the proceeding should not be quashed at this stage, but I do not find any substance to such argument because allowing the criminal proceeding to continue even where the allegations in the complaint against the petitioner has not been substantiated at all during investigation and even where the materials collected during investigation do not make out any offence, would be tantamount to an

abuse of the process of Court and therefore, there cannot be any dispute that in such case power under Section 528 of BNSS can be exercised. The statements made by the witness during investigation are vague and indefinite and except the bald allegation that over the issue of taking wrong turn by the petitioner's vehicle, two unidentified parties abused each other, which resulted small skirmish, nothing further have been stated and there is not an iota of material to indicate how the petitioner herein is involved with the alleged offence.

Therefore Clause (3) & (7) of Paragraph 102 of ***State of Haryana & Ors. Vs. Bhajanlal & Ors.*** reported in 1992 ***Supp(1) SCC 335*** as to where power under Section 528 can be exercised, clearly attracts in the present case, which may be quoted below:-

“(3) Where the uncontroverted allegations made in the FIR as complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

In view of above, I find that further continuance of the impugned proceeding will be mere abuse of the process of the Court specially in view of the fact that even if the materials collected during investigation are taken to be true, it does not constitute any offence under Section 115(2) or 126(2) or 351 of the BNS, far from any chance of conviction of the present petitioner under the said provisions at the end of trial.

In such view of the matter, CRR 409 of 2026 is allowed.

The impugned proceeding being G.R. Case No.662 of 2025 arising out of Burtolla Police Station Case No.104 of 2025 dated 11.06.2025 presently pending before learned Additional Chief Judicial Magistrate, Calcutta is quashed.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court, Calcutta.

(Dr. Ajoy Kumar Mukherjee, J.)