

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

PRESENT:

THE HON'BLE DR. JUSTICE AJOY KUMAR MUKHERJEE

**CRR 436 of 2024
IA No. CRAN 1 of 2024**

**Pabitra Nanda @ Pabitra Kumar Nanda
Vs.
The State of West Bengal & Anr.**

For the Petitioners	:	Mr. Mr. Ayan Basu Mr. Debabrata Chakraborti Mrs. Soma Chakraborty Mr. Sumit Routh
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For the State	:	Mr. Prasun Kumar Dutta Mrs. Pallavi Priyadarshee
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Heard On	:	25.02.2026
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Judgment on	:	09.03.2026
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Dr. Ajoy Kumar Mukherjee, J.

1. The petitioner herein is aggrieved with the charge-sheet submitted against him under section 188/506 of Indian penal code (in short IPC) arising out of Sutahata Police Station Case no. 160 of 2022, presently pending before learned Additional Chief judicial Magistrate, Haldia.

2. The allegation levelled against the petitioner by the opposite party is that opposite party has a garment shop beside Chaitnayapur Kukra Hati Road at Chaitnayapur Bazar. Public works department, Chaitnayapur issued a notice being memo no. 140/w-65 dated 15.03.2022 regarding widening and strengthening of road. One shop keeper namely Sapan Kumar Maity filed a writ application being WPA no. 8517 of 2022 and High Court by an order dated 12.05.2022 was pleased to stay the operation of aforesaid memo no. 140/w-65 dated 15.03.2022. However the petitioner herein inspite of said stay order, passed by this High Court did not stop demolition work and also misbehaved with them and was also keeping pressure upon the shop keepers to vacate the government land. On the basis of such written complaint O/C Sutahata P.S. started aforesaid proceeding under section 188/506 of IPC. After completion of investigation, police submitted charge sheet against the present petitioner on 31.03.2023 under the above mentioned sections and the court had taken cognizance on 21st September, 2023.

3. Being aggrieved by the aforesaid proceeding learned counsel for the petitioner submits that the petitioner is a government contractor and he obtained the work order issued by Government of West Bengal on 25.11.2020 for widening/ strengthening the said road and he started his work under the supervision of the Assistant Engineer, PWD. Some persons claiming to be the owners approached before High court challenging the notice dated 15.03.2022, issued by the PWD authority. A contempt application was also filed on the allegation of violation of the aforesaid order of the High Court.

4. Petitioners contention is that he never demolished any structure or has removed any tree from the road as per the work order dated 25.11.2020 and no one has ever been threatened by the petitioner and the work was being progressed where there was no obstruction and the petitioner being contractor has no authority to do other works except the work as per the awarded contract.

5. He further submits that prior to the date of instant complaint dated 09.06.2022 the aforesaid complainant affirmed a Writ Petition on 07.06.2022 being WPA 10091 of 2022, wherefrom it appears that no allegation has been levelled against the present petitioner, in the said writ petition, however the investigating officer without making proper investigation has submitted the charge sheet. He further submits that in the writ petition being no. WPA 8517 of 2022 a contempt application was also filed with the self-same allegation but the same has been rejected by the High Court. Infact the investigating officer failed to understand the purport of the High Court's order whereby for the time being stay was granted upon the notice dated 15.03.2022 and not against the work order dated 25.11.2020. There was no scope to disturb the complainant by the petitioner, as all other steps were taken by the PWD authority except the construction work which is supposed to be done as per the work order dated 25.11.2020 by the petitioner and therefore alleged violation of the order of this High Court dated 12.05.2023 had never arisen, as there were no stay against the widening and strengthening the road and the work is being done by the PWD authority as per the guideline, as has been provided and the explanation of the petitioner has been duly accepted by the police authority

while the petitioners were appeared before them under the notice given under section 41 (a) of the Cr.P.C. He further submits that the allegation as pleaded in the concerned charge sheet does not constitute any offence under section 188 or section 506 of the IPC and therefore continuation of the proceeding in connection with the present case would be an abuse of the process of law and the same is liable to be set aside.

6. Learned counsel for the State placed the Case Dairy and leaves the prayer to the discretion of the court.

7. I have considered submissions made by the parties.

8. Section 188 of the IPC deals with offences related to contempt of the lawful authority of public servant to maintain law and order, within the society. In the instant matter there were no preventive order to construct the road within free space and the promulgation regarding the same and the contents of the order of High Court as passed in WPA 8517 of 2022 never restrained the PWD authority to do the work within the free space as appearing from the order dated 24.01.2023 and as such there was no violation of any order and for which the contempt application has also been rejected by the same Bench, though the police authority were given liberty to deal with the matter in accordance with law. It also appear that the charge sheet has not been filed in compliance with the direction made by the Apex Court in ***Sharif Ahmed and Another Vs. State of U.P. & another*** reported in **2024 LiveLaw (SC) 337**.

9. Apart from that, it is trite law that in terms of section 195(1)(a) of the Cr.P.C, no court shall take cognizance of any offence punishable under section 172 to 188 (both inclusive) of the IPC except on the complaint in

writing of the public servant concerned or of some public servant to whom he is administratively subordinate. In the instant case, learned Trial Court had taken cognizance in respect of offence under section 188 of IPC, on the basis of a police report which is bad in law. Infact initiation of the proceeding on the basis of police report is absolutely impermissible.

10. It further appears that in the said Writ Application a contempt proceeding was drawn being CPAN no. 108 of 2023 on the self same allegation of violation of High court's order but this High court dismissed the same and therefore the allegation made in the FIR has been negated by the High Court in its order dated 16.03.2023 in connection with aforesaid contempt application. As such no offence under section 188 has been made out nor the proceeding under section 188 has been initiated in terms of section 195(1)(a) of the Cr.P.C. The charge sheet is also absolutely bereft of any particular and absence of validation of evidence relied by investigating agency in satisfaction of prima facie case making out the ingredient of the offence as alleged and thereby has completely violated the law laid down by the Apex Court in ***Sarif Ahmed And another Vs. State of U.P. & another*** reported in **2024 Lilvelaw (SC) 337**, which clearly mandated that the investigating officer must make clear and complete entries of all columns in the charge sheet, so that the court can clearly understand which crime has been committed by which accused and what is the material evidence available in the file. The role played by the accused in the crime should be separately and clearly mentioned in the charge sheet for each of the accused person.

11. There is no allegation anywhere regarding the offence punishable under section 506 of IPC, which only attracts when the accused has threatened someone with injury to his person reputation or property with intent to cause alarm to the victim of offence and thereby caused victim to perform any act which he was not legally bound to do but such type of allegation is completely absent in the present case. Therefore in conclusion it can be said that the materials available in the record neither constitute any offence under section 188 or under section 506 of the IPC and furthermore taking cognizance of the offence by the court below itself is bad in law in view of non-compliance of provision under section 195(1)(a) of the Cr.P.C . Therefore further continuance of the instant proceeding would be mere abuse of the process of the court .

12. In view of above **CRR 436 of 2024 is allowed.** The impugned preceding being Sutahata Police Station Case 160 of 2022 dated 09.06.2022 presently pending before Learned Additional Chief Judicial Magistrate, Haldia is hereby quashed. The connected Application is also disposed of accordingly.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, on priority basis on compliance of all usual formalities.

(DR. AJOY KUMAR MUKHERJEE, J.)