

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. 426 of 2022

Debashis Ghosh

Versus

Union of India

For the Petitioner	:	Mr. Syed Shahid Imam, Adv. Mr. Md. Khairul, Adv.
For the C.B.I.	:	Mr. Amajit Dey, Adv. Mr. Sukanta Chakraborty, Adv.
Heard on	:	06.02.2026
Judgment on	:	02.04.2026

Ajay Kumar Gupta, J.:-

1. The instant Criminal Revisional application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973 (in short 'Cr.P.C.') has been preferred by the petitioner challenging the correctness, legality and propriety of an order dated 24.09.2021

passed by the Learned Special Judge, (CBI) Court No. 1, Bichar Bhawan Kolkata in SPL Case No. 04 of 2016 arising out of RC. 0102013A0008 of 2013 dated 30.03.2013 under Sections 120B/420/468/471 of the Indian Penal Code, 1860 (in short 'IPC') and under Sections 13(2)/13(1)(d) of the Prevention of Corruption Act, 1988. By the order impugned, the Trial Court rejected the prayer for discharge from the case involved.

FACTS OF THE CASE: -

- 2.** The essential facts, leading to the filing of this instant Criminal Revisional application, are as under: -
 - a.** The CBI/SPE/ACB/Kolkata registered an F.I.R., being No. RC 0102013A0008 of 2013 on 30.03.2013 on the basis of source information alleging therein that Abhijit Gupta, the then Section Engineer, S. E. Rly, Kharagpur and others have given undue favour to the accused Private Firms M/S Efftronics Systems Pvt. Ltd, M/S Aster Electrosoft Pvt. Ltd and M/S Ambitious Enterprises, by allowing these firms to install Electronic Train Indicator Boards (ETIBs) at the Andul-Baruia-Deulti stations, Sankrail-Nalpur-Jakpur stations, and Tamluk-Belda-Jhargram-Digha stations, all under the Kharagpur division.
 - b.** Even without the integration of ETIBs with the Existing Public Address systems and the incomplete work, the said officials of S.E.

Railway released the full payment along with security deposit and performance guarantee to the accused contractors, thereby committing offences U/S 120B r/w 420, 468 and 471 of IPC and Sections 13(2) r/w 13(1) (d) of the Prevention of Corruption Act. As a result, the S.E. Railway suffered a pecuniary loss of Rs. 12,44,762.34/-.

- c.** After completion of the investigation, a charge sheet, CS No. 40/2014 on 31.12.1014 was filed against (i) Abhijit Gupta, the then SSE/Tele/Wireless KGP, S.E. Railways, (ii) Sri Salil Ghosh, partner of M/s Ambitious Enterprise Pvt. Ltd., (iii) Sri Subrata Mukherjee, constituted Attorney of M/s Ambitious Enterprises Pvt. Ltd., and (iv) Debashis Ghosh, the then DSTE, KGP, S.E. Rly, alleging the commission of offences u/s 120B/420 IPC and Section 13(1)(d) of the Prevention of Corruption Act.
- d.** The allegations against the petitioner in the instant case are that he abused his official position and recorded inflated measurements in the MB (Measurements Book), and further certified the same. On the basis of the false measurements, the contractor, M/s Ambitious Enterprises Pvt. Ltd., received inflated payments for his bills, resulting in wrongful loss to the Railways.
- e.** It was also alleged that the Railway had issued a work order to M/s Ambitious Enterprises at substantially higher rates compared

to Tata Nagar of CKP division. An excess amount was paid to the firm (Contractor) due to wrong measurement of trenching, subsequently correlated with data cable, power cable, HDPE pipe, etc.

- f.** The tender was opened on 24.07.2009, and members had put their initials on the tender offers. Thereafter, on 28.07.2009, a summary was prepared and all offers/tenders, along with the summary, were sent to the tender section at Kharagpur for the preparation of a comparative statement and briefing note. A brief note and comparative statements were prepared on 10.08.2009 and sent to the Finance Department for vetting on the same date.
- g.** The detailed estimate was technically sanctioned on 10.08.2009, which was before the issuance of LOA (Letter of Acceptance) dated 01.12.2009, in favour of M/s. Ambitious Enterprises Pvt. Ltd.
- h.** The tender Committee recommended acceptance of the offer of M/s Ambitious Pvt. Ltd. for supply, installation, and commissioning of ETIB at the aforesaid stations, and the same was accepted by the Tender Accepting Authority. Accordingly, an LOA and Work Order were issued for the aforesaid work in question and given to M/s Aster Electrosoft Pvt. Ltd. Thereafter, a contract/agreement was signed between the S. E. Railways and the contractors for executing the aforesaid work.

- i.** It is the contention of the petitioner that he had no role to play in the initial planning, tendering and receipt of material and payment thereof. He joined as a Divisional Signal & Telecom Engineer/Tele-maintenance (DSTE), Kharagpur on 6th January, 2010. He did not know such facts and circumstances of work orders.
- j.** The allegation against the Petitioner was that the cost of single-line double-face (Trilingual) train Arrival/Departure Display Boards as per RDSO specification no. RDSO/SPN/TC/61/2007 (Revision 2.0) was quoted Rs. 2,80,000/- at Chakradharpur Division of South Eastern Railway, whereas for the same item, a rate of Rs. 5,05,000/- was quoted at Kharagpur Division.
- k.** In the above premise, the petitioner finds it necessary to mention that while making their recommendation, it is the responsibility of the Tender Committee to examine all relevant factors, such as the existing workload on the lowest two or three tenders, their capacities to execute further work and also whether the rates quoted are reasonable and workable.
- l.** The petitioner was not present while dealing with the tender or completion of work orders and had no role to play in the initial planning, tendering, receipt and material and payment thereof. In view of the aforesaid facts and circumstances, the petitioners

stated that the instant proceeding is an abuse of the process of law. Hence, this application.

SUBMISSION ON BEHALF OF THE PETITIONER: -

3. Learned counsel appearing on behalf of the petitioner submitted that the petitioner was a DSTE. His work does not extend to setting up, commissioning, supervising, or maintaining ETIBs. The Petitioner is under the technical Control of Sr. DSTE and works on the instructions of the Senior DSTE. Nearly 90 per cent of the payments had already been made in respect of the said schedule work before the Petitioner joined.
4. It was submitted that the final bill, which came up during the Petitioner's tenure, is the subject matter of this case, which establishes that the petitioner had no role in the initial planning, tendering & receipt of material and payment thereof.
5. The contention of the Petitioner is that the case was initiated solely on the allegation that the Railways had issued a work order to M/s. Ambitious Enterprises Pvt. Ltd. at rates substantially higher than those quoted at Tatanagar, under the Chakradharpur (CKP) Division. However, upon investigation, the Investigating Authority recorded in the charge sheet as follows:

"The cost of single line double face (Trilingual) train arrival/departure display board as per RDSO Specification No.RDSO/SPN/TC/61/2007 (Revision 2.0) was quoted

Rs.2,80,000/-at Chakradharpur Division of South Eastern Railway whereas for the same item rate of Rs.5,05,000/- was quoted at Kharagpur Division. But investigation also remarked that in Kharagpur there was a condition in the Notice Inviting Tender that the times has to be procured from RDSO approved source, which is also one of the reasons for the variation in price of Chakradharpur Division and Kharagpur Division."

6. It is, therefore, evident that the very basis on which the FIR was lodged stood explained during investigation. The Investigating Agency itself found that the variation in price was attributable to the tender condition mandating procurement from RDSO-approved sources, and consequently failed to substantiate the allegations against the petitioner. The foundational premise of the case thus stood demolished.
7. Despite such clarification, which goes to the root of the matter, the Investigating Agency proceeded with the investigation and ultimately filed a charge sheet against the petitioner. This action, in the absence of any incriminating material, appears to be arbitrary and amounts to an abuse of process, giving rise to a case of wrongful and malicious prosecution instituted without good faith.
8. Finally, it was submitted that the Petitioner was not a named accused in the FIR; he has been falsely implicated in the present case, though he had no role to play in any physical checking, testing and

measuring of the cable. All measuring, testing and checking were executed before he joined as DSTE.

9. Therefore, the proceeding against the present petitioner is an abuse of the process of law. To secure the ends of justice, it requires him to be discharged by quashing of the proceedings in so far as the petitioner is concerned; otherwise, the petitioner would greatly suffer and be prejudiced.

SUBMISSION ON BEHALF OF THE OPPOSITE PARTY/CBI: -

10. Learned counsel Mr. Dey, representing the CBI, vehemently opposed the prayer of the petitioner and further submitted that the Petitioner had played a role in the offence as alleged. During the investigation, it was revealed that after finding the inflated payment with less work on the ground, the S. E. Rly. recovered an amount of Rs. 10,12,194.67/- from M/S Ambitious Enterprises Pvt. Ltd. for 2 work orders vide contract Agreement dated 20.03.2010, in pursuance of Para 51 (2) of General Conditions of Contract Vol-2-2001, which deals with post-payment audit. The Petitioner had certified the completion of the aforesaid work. Rs. 2,32,567.67/-, along with the pending bills of the aforesaid contractor is yet to be recovered.
11. It was further submitted that the petitioner was responsible for conducting a test check of the work. He has also certified the Measurement books. The bill was submitted on 03.02.2010. The final

bill was released on 04.08.2010 during his tenure; as such, the petitioner was involved in the offence punishable under section U/S 120B read with 420, 468 and 471 of IPC and Sections 13(2) r/w 13(1) (d) of the Prevention of Corruption Act.

- 12.** It was further submitted that during the course of fresh measurements, it was revealed that the measurements, as recorded in the MB, were false and inflated. These inflated measurements were recorded in the MB by accused Shri Abhijit Gupta (A-1), which was certified to be correct by accused Shri Debasish Ghosh and countersigned by Sh. M. Santosh Kumar, representative of M/S Aster Electrosoft Pvt Ltd, had claimed bills against these inflated measurements in the MB; as such, the petitioner is required to face trial to unearth the truth. Therefore, the present application is liable to be dismissed.

DISCUSSIONS, ANALYSIS AND CONCLUSION OF THIS COURT: -

- 13.** Having heard the learned counsels appearing on behalf of the respective parties and upon perusal of the records, especially the complaint and charge sheet submitted in RC0102013A0008 dated 30/03/2013 against Shri Abhijit Gupta, the then Senior Section Engineer/Tele/Wireless, Kharagpur Division, South Eastern Railway, Kharagpur and others under sections 120B/420 of the IPC and Section 13(2) r/w 13(1) (d) of PC Act, 1988, this court finds that the

allegations primarily relate to issuance of work orders for the supply and installation of ETIBs at various stations under Howrah-Kharagpur-Digha section, at substantially higher rates than those prevailing in a comparable project executed shortly prior in the Chakradharpur Division, S.E. Railway. It appears from the record that M/s Ambitious Enterprises, had executed similar work at Tatanagar, Rourkela and Jharsuguda stations at an accepted rate of Rs. 71, 17, 349/-, whereas the estimate prepared by Pradip Kumar Prasad and the present accused Abhijit Gupta for the Howrah-Kharagpur-Digha section was Rs. 92,01,836/-, thereby giving rise to the allegation of inflated estimation and possible financial irregularity.

- 14.** During the investigation, it has been revealed that the petitioner was also very much involved in the measurement process, and the measurements recorded in the MB were false and inflated. He should have raised objection before final payment if there was false and inflated measurement recorded in the MB. The said inflated measurements were recorded by accused Shri Abhijit Gupta (A-1) which were subsequently certified as correct by the present petitioner, Shri Debasish Ghosh, on the basis of which, bills were raised and payments claimed.

- 15.** The principal contention of the petitioner is twofold: first, that he had no role in the foundational aspects of the contract such as tendering, rate fixation, or execution; and secondly, that the very basis of the FIR, namely the alleged disparity in rates between Kharagpur Division and Chakradharpur Division, stood satisfactorily explained during the investigation itself. In this regard, it is significant that the charge sheet records that the variation in price was attributable to a specific tender condition requiring procurement from RDSO-approved sources. This clarification materially weakens the foundational allegation of undue favour or arbitrary rate fixation.
- 16.** However, the scope of the present proceeding cannot be confined merely to the validity of the initial tender process. The prosecution has specifically attributed an active role to the petitioner in certifying measurements and facilitating the release of the final bill. The CBI has specifically alleged that the measurements recorded were false and inflated, and that the petitioner certified those measurements. Based on these certified measurements, payments were made to the contractor.
- 17.** This Court notes that certifying measurements is an important responsibility. It is not just a routine task, because such certification directly affects how much money is paid. If the measurements were indeed inflated and were wrongly certified, it may amount to an

offence. During investigation, it established prima facie case against the Petitioner.

- 18.** In such circumstances, this Court is not persuaded to hold that the continuation of the proceedings amounts to an abuse of the process of law. Involvement of the accused in the allegations requires him to face trial to unearth the truth after recording evidence. Therefore, the application found to be devoid of merit and requires dismissal.
- 19.** Accordingly, **CRR 426 of 2022** is, thus, **dismissed**. Connected applications, if any, are also, thus, disposed of.
- 20.** Let a copy of this Judgment and Order be sent to the Learned Court below for information.
- 21.** Interim order, if any, stands vacated.
- 22.** All parties will act on the server copies of this Judgment and Order uploaded on the official website of this Hon'ble High Court.
- 23.** Urgent photostat certified copy of this Judgment and Order, if applied for, is to be given as expeditiously to the parties on compliance of all legal and necessary formalities.

(Ajay Kumar Gupta, J)