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

**Present:**

**The Hon'ble Justice Ananya Bandyopadhyay**

**C.R.R. 54 of 2014**

**Kalachand Paul & Anr.**
**-Vs-**
**The State of West Bengal & Anr.**

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| For the Petitioners | : Mr. Sourav Chatterjee<br>Mr. Soumya Nag |
| For the State | : Ms. Faria Hossain<br>Mr. Anand Keshari |
| Judgment on | : 29.06.2026 |

**Ananya Bandyopadhyay, J.:-**

1. The instant revisional application has been filed by the petitioners for quashing of proceedings being G.R. No.1566/2010 pending before the Learned Additional Chief Judicial Magistrate, Bongaon, North 24 Parganas, arising out of Bongaon Police Station Case No.542 of 2010 dated 23rd November, 2010 under Sections 419/420/468/120B of the Indian Penal Code and all orders passed therein including the order dated 27.09.2012 passed by the Learned Additional Chief Judicial Magistrate, Bongaon, North 24 Parganas, thereby taking cognizance of offences punishable under Sections 419/420/468/120B of the Indian Penal Code against the petitioners in connection with the aforesaid case.

2. The petitioners trace the genesis of the controversy to the commercial activities of petitioner no.2, the sole proprietor of M/s. B.J. Traders, an enterprise engaged in the import and export of diverse commodities. Petitioner no.1 acted as the constituted attorney of the said proprietary concern and represented its affairs in relation to the transactions forming the subject matter of the present proceedings.
3. The petitioners state that on or about 30th June, 2009, M/s. B.J. Traders lawfully imported 127.715 metric tonnes of betel nuts, packed in 1,435 bags, from Bangladesh through the authorised channel at the Petrapole Land Customs Station. The customs clearing formalities were entrusted to M/s. Akshoy Kumar Ghosh & Sons, described in the petition as Opposite Party No.2, which functioned as the customs clearing agent for the imported consignment.
4. According to the petitioners, after remaining at the customs station for several months, the consignment was released by the Customs Authorities on 3rd January, 2010. The goods were distributed amongst thirteen vehicles, and on the very same date thirteen transit declarations were issued, each remaining operative until 23rd January, 2010.
5. The petitioners explain that the prolonged detention of the goods between 30th June, 2009 and 3rd January, 2010 exposed the betel nuts to adverse climatic conditions, causing a substantial portion of the consignment to become damp and partially rotten. The transporter, S.B.S. Transport, immediately communicated the deteriorated condition of the cargo to the

petitioners by its letter dated 4th January, 2010, seeking necessary directions.

6. Faced with the deteriorated condition of the imported goods, the petitioners assert that the damaged betel nuts first required segregation, drying and restoration before they could be commercially marketed. Such an exercise was inherently laborious and time-consuming, rendering the validity period of the transit declarations wholly inadequate for completion of the process.
7. In these circumstances, the petitioners addressed a representation dated 22nd January, 2010 to the Joint Commissioner of Commercial Taxes, Barrackpore Range, praying for extension of the transit declarations relating only to five out of the thirteen vehicles, since the consignments contained in the remaining eight vehicles had already proceeded beyond the territorial limits of West Bengal. The petitioners emphasise that West Bengal merely served as a transit corridor for transportation of the goods from Bangladesh to Maharashtra, and accordingly extension was sought exclusively for the five vehicles whose consignments remained stationary because of their damaged condition.
8. The petitioners maintain that despite the representation having been submitted well before expiry of the transit declarations, no decision granting extension was communicated until 5th April, 2010. Owing to such administrative inaction, and having regard to the deteriorating condition of the goods, the remaining consignments were ultimately sold within Kolkata.
9. Thereafter, the Joint Commissioner, by notice dated 22nd April, 2010, called upon Opposite Party No.2 to produce the five vehicles on 5th May, 2010 for

consideration of the prayer for extension, indicating that failure to comply might invite proceedings under Section 79 of the West Bengal Value Added Tax Act, 2003. The petitioners state that by 30th April, 2010, the purchasers, namely Sukanya Traders and Shardha Traders, had already discharged their respective tax liabilities arising out of the purchases.

10. The petitioners further state that both the proprietary concern and Opposite Party No.2 separately replied on 4th May, 2010, furnishing a detailed explanation regarding the factual circumstances. Subsequently, on 12th May, 2010, the petitioners deposited Rs.1,30,815/- towards taxes payable to the Government of West Bengal, and by communication dated 13th May, 2010, informed the Joint Commissioner of such payment.

11. The petitioners contend that notwithstanding these developments, the Joint Commissioner issued a show cause notice dated 12th May, 2010 to Opposite Party No.2 alleging contravention of Sections 73 and 76(1) of the West Bengal Value Added Tax Act, 2003, directing appearance on 2nd June, 2010, and indicating that failure to comply could result in determination of the market value of the goods and imposition of penalty under Section 79 of the said Act.

12. Simultaneously, by order dated 13th May, 2010, the Joint Commissioner rejected the petitioners' earlier application dated 22nd January, 2010 seeking revalidation or extension of the transit declarations.

13. Although neither the proprietary concern nor the present petitioners were themselves made noticees in the proceedings under the Value Added Tax Act, the petitioners nevertheless addressed a comprehensive representation

dated 9th June, 2010, placing the factual position before the authorities. Despite such clarification, penalty proceedings culminated in an order dated 17th August, 2010, whereby Opposite Party No.2 was directed to pay Rs.13,27,916/- on or before 17th September, 2010.

14. The petitioners allege that the initiation of criminal proceedings was a direct sequel to the adverse fiscal proceedings against Opposite Party No.2. They assert that, in order to shift the financial burden of the penalty and to pursue a personal vendetta, Opposite Party No.2 filed an application under Section 156(3) of the Code of Criminal Procedure before the Learned Additional Chief Judicial Magistrate, Bongaon, on 16th November, 2010. Pursuant to the Magistrate's direction, Bongaon Police Station Case No.542 of 2010, dated 23rd November, 2010, came to be registered under Sections 419, 420, 468 and 120B of the Indian Penal Code against the petitioners.

15. The First Information Report, as summarised in the petition, alleges that although Opposite Party No.2 had acted as the authorised customs clearing agent and had duly delivered the consignment to the petitioners on 3rd January, 2010, five transit declarations were thereafter allegedly submitted before the Commercial Tax authorities by falsely employing the name of Opposite Party No.2 and by forging the signatures of its employees, including Sri Avijit Sarnakar. The complaint imputes impersonation, forgery, conspiracy and fraudulent conduct to the petitioners, asserting that the forged transit declarations shifted liability for the ensuing tax proceedings upon Opposite Party No.2.

16. The petitioners emphatically dispute these accusations and maintain that they constitute nothing more than a retaliatory measure devised after the penalty proceedings under the Value Added Tax Act had reached an adverse conclusion. They point out that Opposite Party No.2 itself challenged the transit declarations, the penalty proceedings and the penalty order before the West Bengal Taxation Tribunal by filing Revision Case No. RN-859 of 2010 under Section 8 of the West Bengal Taxation Tribunal Act, 1987, wherein both the proprietary concern and petitioner no.1 were impleaded as respondents. The petitioners submit that this course of conduct unmistakably demonstrates that the dispute was fundamentally fiscal and administrative, with the criminal process subsequently invoked as a collateral instrument.
17. Apprehending arrest, the petitioners obtained anticipatory bail from this Court in C.R.M. No.8087 of 2012 by order dated 21st June, 2012. Thereafter, upon completion of investigation, the Investigating Agency submitted Charge Sheet No.445 of 2012 dated 28th July, 2012 under Sections 419, 420, 468 and 120B of the Indian Penal Code, whereupon the Learned Additional Chief Judicial Magistrate, Bongaon, by order dated 27th September, 2012, took cognizance of the alleged offences.
18. The petitioners contend that the First Information Report suffers from conspicuous delay, having been instituted only after substantial fiscal liability had been imposed upon Opposite Party No.2. Such chronology, according to the petitioners, imparts considerable force to the inference that the criminal prosecution is merely a retaliatory expedient conceived to

escape the consequences of the proceedings under the West Bengal Value Added Tax Act.

19. It is further asserted that every allegation regarding the authenticity of the transit declarations could appropriately be examined within the statutory proceedings pending before the taxation authorities and the Tribunal. Consequently, recourse to criminal prosecution amounts to a misuse of the criminal process for securing an advantage in pending fiscal litigation.

20. The petitioners finally submit that even if every allegation contained in the First Information Report and the accompanying materials is accepted at its highest, the essential constituents of the offences punishable under Sections 419, 420, 468 and 120B of the Indian Penal Code remain absent. The allegations, according to them, disclose neither deception nor inducement constituting cheating, nor the foundational elements of forgery or criminal conspiracy attributable to the petitioners. The prosecution is therefore described as a mala fide exercise conceived for harassment and vengeance rather than for vindication of criminal justice. On these premises, the petitioners invoke the inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, seeking quashing of the First Information Report, the charge-sheet and the consequential criminal proceedings to prevent abuse of the process of the Court and to secure the ends of justice.

21. The revisional application invites the exercise of the inherent jurisdiction of this Court for examining the legal sustainability of G.R. Case No.1566 of 2010 arising out of Bongaon Police Station Case No.542 of 2010 dated 23rd November, 2010, presently pending before the Learned Additional Chief

Judicial Magistrate, Bongaon, North 24 Parganas, wherein cognizance has been taken of offences punishable under Sections 419, 420, 468 and 120B of the Indian Penal Code by order dated 27th September, 2012.

22. The Learned Advocate representing the petitioners submits that the criminal prosecution has emerged, not from any genuine criminal design, but as a sequel to proceedings initiated under the West Bengal Value Added Tax Act, 2003, against the customs clearing agent, namely the Opposite Party No.2. According to the petitioners, the criminal law has been invoked as an instrument to transfer the fiscal consequences arising out of administrative proceedings upon persons who had neither fabricated documents nor practised deception upon any authority.

23. The factual background, as delineated by the petitioners, commences with the business activities of petitioner no.2, the sole proprietor of M/s. B.J. Traders, a concern engaged in import and export of commodities. Petitioner no.1 acted as the constituted attorney of the said proprietary concern and conducted its commercial affairs.

24. During the ordinary course of business, the concern imported approximately 127.715 metric tonnes of betel nuts from Bangladesh through the Petrapole Land Customs Station on 30th June, 2009. The import was carried out through lawful customs channels and supported by the requisite commercial invoices and import documentation. For facilitating customs clearance, M/s. Akshoy Kumar Ghosh & Sons, the present Opposite Party No.2, had been formally appointed as the authorised customs clearing agent, a fact

evidenced by the communication addressed to the Superintendent of Customs prior to commencement of the transaction.

25. The Learned Advocate submits that the subsequent chain of events originated entirely from administrative delay rather than any omission attributable to the petitioners. Although the imported consignment had reached the customs station on 30th June, 2009, the Customs Authorities permitted release of the goods only on 3rd January, 2010. Transit declarations in respect of thirteen vehicles transporting the consignments were simultaneously issued with validity extending only up to 23rd January, 2010.

26. According to the petitioners, this prolonged interval of more than six months compelled the consignments to remain stationary inside the vehicles during the monsoon and succeeding months, exposing the goods to moisture, rainfall and varying climatic conditions. The inevitable consequence was gradual deterioration of a substantial quantity of betel nuts, many becoming partially rotten and water-soaked, thereby rendering immediate transportation and commercial distribution impracticable.

27. The transporter, namely S.B.S. Transport, communicated the prevailing condition by its letter dated 4th January, 2010, requesting immediate instructions from the petitioners. Faced with consignments requiring segregation, drying and preservation before further transportation could be attempted, the petitioners contend that the validity period of the transit declarations became insufficient for completion of the contemplated movement.

28. Recognising this practical impediment before expiry of the transit declarations, the petitioners addressed a representation dated 22nd January, 2010 to the Joint Commissioner of Commercial Taxes, Barrackpore Range, praying for extension of the transit declarations in respect of only five vehicles. Eight vehicles had already crossed beyond the territorial limits of West Bengal during the currency of the declarations, leaving merely five consignments within the State.

29. The application expressly disclosed that West Bengal merely constituted a transit corridor for transportation of the imported goods towards Maharashtra and candidly narrated the reasons compelling extension of the declarations. According to the petitioners, this application remained pending without any administrative determination for several months.

30. The Learned Advocate submits that while the authorities maintained complete silence regarding the pending application, the condition of the remaining consignments progressively deteriorated. Commercial prudence demanded disposal of the damaged goods before total destruction rendered the entire consignment worthless. Consequently, on 5th April, 2010, the petitioners sold the consignments contained in the remaining five vehicles within Kolkata through regular commercial invoices.

31. Far from concealing the transaction, the petitioners contend that every statutory liability arising from the local sale stood duly discharged. The purchasers deposited commercial taxes upon their respective purchases on 30th April, 2010. Thereafter, petitioner no.2 independently deposited a further sum of Rs.1,30,815/- towards tax on 12th May, 2010 and promptly

informed the Commercial Tax Authorities by written communication dated 13th May, 2010.

32. According to the petitioners, despite these disclosures, the Joint Commissioner, by notice dated 22nd April, 2010, required production of the five vehicles on 5th May, 2010 for consideration of extension of the transit declarations. Separate replies dated 4th May, 2010 were submitted both by the petitioners' concern and by the customs agent explaining that the goods had already been disposed of after prolonged administrative inaction and after payment of the applicable taxes.

33. The petitioners maintain that these explanations failed to receive objective consideration. Instead, the Joint Commissioner issued a show cause notice dated 12th May, 2010 against the customs clearing agent under the provisions of the West Bengal Value Added Tax Act. On the very next day, namely 13th May, 2010, the application seeking extension or revalidation of the transit declarations was rejected, notwithstanding that the request had remained pending for almost five months.

34. Although the petitioners themselves were never subjected to proceedings under the Value Added Tax Act, they nevertheless addressed a detailed communication dated 9th June, 2010 explaining every factual circumstance and reiterating that taxes had already been deposited. Despite such explanation, the authorities proceeded against the customs agent, culminating in a penalty order dated 17th August, 2010 imposing liability of Rs.13,27,916/-.

35. The Learned Advocate submits that the genesis of the present criminal prosecution is traceable to this fiscal proceeding. According to the petitioners, immediately after the penalty order, the customs agent sought to divert the statutory liability by initiating criminal proceedings against the petitioners. An application under Section 156(3) of the Code of Criminal Procedure came to be filed before the Learned Additional Chief Judicial Magistrate, Bongaon on 16th November, 2010. Acting upon the Magistrate's direction, Bongaon Police Station Case No.542 of 2010 dated 23rd November, 2010 was registered for investigation under Sections 419, 420, 468 and 120B of the Indian Penal Code.

36. The First Information Report alleges that after delivery of the imported consignments together with the relevant documents by the customs clearing agent, the petitioners fabricated five transit declarations by forging the signatures of employees attached to the office of Opposite Party No.2 and thereafter utilised those documents before the Commercial Tax Authorities, thereby shifting liability arising out of the tax proceedings upon the customs agent.

37. The petitioners categorically deny every allegation of fabrication or forgery and submit that the accusations rest exclusively upon conjecture, devoid of legally admissible material capable of sustaining criminal prosecution. The Learned Advocate for the petitioners submits that the investigation, when examined through the prism of the charge-sheet itself, reveals deficiencies of such magnitude that the continuation of the prosecution would amount to a departure from the settled discipline governing criminal jurisprudence.

According to the petitioners, the materials collected during investigation fail to establish even the foundational facts necessary for constituting the offences alleged in the First Information Report.

38. The principal accusation against the petitioners rests upon the allegation that five transit declarations had been fabricated by forging the signatures of employees attached to the office of the Opposite Party No.2. Such allegation, it is argued, necessarily attracts the statutory ingredients embodied in Sections 463, 464 and 468 of the Indian Penal Code. The prosecution, therefore, carries the burden of establishing, through legally admissible evidence, that a false document came into existence within the meaning of Section 464 and that the petitioners were responsible for making such document with the requisite criminal intention.

39. The Learned Advocate submits that the investigation has failed at the very threshold to collect the primary evidence necessary for such determination. Attention is invited to the charge-sheet, which discloses that the Investigating Agency never seized the original transit declarations or any original document alleged to have been forged. Instead, photocopies were collected from the office of the Opposite Party No.2. The prosecution has thus proceeded without securing the very documents which constitute the substratum of the accusation.

40. According to the petitioners, criminal liability founded upon forgery cannot rest upon copies when the originals neither form part of the investigation nor remain available for forensic examination. The alleged forged writings constitute the corpus of the prosecution case. Their absence deprives the

Court of the opportunity to ascertain whether any interpolation, alteration or fabrication had, in fact, occurred. Equally, the defence stands deprived of the valuable safeguard of challenging the authenticity of the alleged writings through recognised scientific methods.

41. The Learned Advocate further submits that the investigation omitted to secure the opinion of a handwriting expert. No disputed signatures were forwarded to any forensic laboratory for comparison with admitted writings. No scientific examination was undertaken to ascertain authorship of the alleged signatures. The list of witnesses accompanying the charge-sheet also reveals that no handwriting expert has been cited as a prosecution witness.

42. According to the petitioners, this omission assumes decisive significance because the allegation of forgery necessarily involves determination of authorship. Mere assertion by the complainant that signatures are fabricated cannot substitute scientific examination where the prosecution itself attributes authorship of the alleged forged documents to identified individuals.

43. The petitioners contend that the investigation has thus proceeded upon assumption rather than demonstrable proof. The prosecution has neither collected the originals nor secured expert examination nor produced any witness capable of identifying the alleged handwriting through legally recognised methods. The evidentiary foundation indispensable for sustaining the accusation of forgery consequently remains absent.

44. The Learned Advocate submits that even assuming the prosecution proceeds to trial, the evidentiary deficiency remains incapable of rectification upon the

existing materials. What survives are merely photocopies obtained during investigation. Such photocopies, standing by themselves, cannot automatically acquire the character of admissible evidence. Secondary evidence becomes receivable only after fulfilment of the statutory conditions contemplated under the Indian Evidence Act. Unless the existence, custody and loss or other legally recognised circumstances concerning the originals are satisfactorily established, photocopies possess no independent evidentiary value capable of proving execution or fabrication of a disputed document.

45. Accordingly, the petitioners submit that the prosecution presently possesses neither the primary evidence nor the legal foundation necessary for introducing secondary evidence during trial. Continuation of the criminal proceeding despite such inherent evidentiary deficiency would merely prolong litigation without advancing the cause of justice.

46. The Learned Advocate places considerable reliance upon the decision of the Hon'ble Supreme Court in ***Sheila Sebastian v. R. Jawaharaj***, reported in ***(2018) 7 SCC 581***. Particular emphasis has been laid upon paragraphs 25 and 30 of the judgment.

47. It is submitted that the Supreme Court has authoritatively declared that liability for forgery attaches only to the maker of the false document. The statutory language embodied in Sections 463 and 464 of the Indian Penal Code admits no enlargement through inferential reasoning or equitable considerations. Criminal liability cannot be extended merely because an individual may have derived some advantage from a document alleged to be

false. The prosecution must establish, through cogent evidence, that the accused himself made the false document or participated in its creation in the manner contemplated by law.

48. The Learned Advocate submits that the ratio of *Sheila Sebastian (supra)* directly governs the present prosecution. Even if the allegations contained in the First Information Report are accepted in their entirety, the investigation has produced no material identifying either petitioner as the maker of the alleged transit declarations. No original writings exist before the Investigating Agency. No scientific comparison has been undertaken. No witness has identified the handwriting. Consequently, the statutory ingredients constituting forgery remain wholly absent.

49. Reliance is also placed upon the order dated 10th May, 2022 passed by the Coordinate Bench in the present revisional application, wherein the Learned State Advocate was directed to obtain instructions explaining how prosecution under Sections 419, 420, 468 and 120B of the Indian Penal Code could proceed when the prosecution itself possessed no original documents for reliance. According to the petitioners, this judicial direction reflects the conspicuous evidentiary vacuum apparent upon the face of the record.

50. Proceeding to the allegation of cheating, the Learned Advocate submits that the ingredients constituting offences under Sections 419 and 420 of the Indian Penal Code remain equally absent.

51. To constitute the offence of cheating, there must exist deception at the inception of the transaction coupled with fraudulent or dishonest

inducement resulting in delivery of property or alteration of legal position by the person deceived. Such dishonest intention must accompany the very commencement of the transaction and cannot emerge as a subsequent consequence of commercial disagreement or administrative proceedings.

52. According to the petitioners, the factual narrative narrated by the complainant itself demonstrates that the import transaction had reached completion long before initiation of proceedings under the West Bengal Value Added Tax Act. The customs clearing agent had admittedly discharged his contractual obligation by completing customs formalities and handing over the consignments together with all relevant documents. Every commercial relationship between the parties stood concluded prior to commencement of the subsequent fiscal proceedings.

53. The allegation subsequently advanced relates exclusively to alleged fabrication of transit declarations in connection with tax proceedings. Such allegation, even if assumed to be factually accurate for purposes of argument, does not disclose any fraudulent representation practised upon the complainant at the inception of the contractual relationship. Neither the First Information Report nor the charge-sheet attributes any initial deception whereby the complainant was persuaded to part with property or assume legal obligations.

54. The Learned Advocate therefore submits that the indispensable statutory ingredients constituting cheating remain entirely absent. Criminal prosecution cannot be sustained merely because subsequent fiscal liability

has generated disputes between parties who had previously entered into a lawful commercial arrangement.

55. According to the petitioners, the sequence of events unmistakably demonstrates that the criminal proceeding followed immediately after the penalty order passed against the Opposite Party No.2 under the provisions of the West Bengal Value Added Tax Act. The chronology itself, it is submitted, furnishes the surrounding circumstances indicating that the criminal process has been employed as a retaliatory measure for transferring civil and fiscal liability upon the petitioners.

56. The Learned Advocate finally submits that every circumstance emerging from the investigation, the charge-sheet and the accompanying materials demonstrates absence of the essential ingredients constituting the offences alleged. Continuation of the criminal prosecution in such circumstances would convert the criminal process into an instrument for perpetuating a commercial dispute arising from fiscal proceedings rather than prosecuting conduct amounting to an offence recognised by law.

57. The petitioners, therefore, pray that this Court, in exercise of its inherent jurisdiction, may interdict further continuation of the criminal proceeding and secure the ends of justice by quashing the First Information Report, the charge-sheet, the order taking cognizance and every consequential proceeding arising therefrom.

58. The Learned Advocate representing the State submitted that the proceedings should not be quashed at such a nascent stage pending trial.

59. The controversy presented for adjudication extends beyond the bare recital of allegations contained in the First Information Report. The materials placed before the Court discloses a sequence of commercial transactions, statutory proceedings under a fiscal enactment, and the subsequent initiation of criminal prosecution. The central enquiry, therefore, is whether the allegations, viewed in the light of the accompanying materials collected during investigation, disclose the constituent elements of the offences alleged, or whether the criminal proceeding has travelled beyond the legitimate frontiers of criminal law into a field essentially governed by statutory fiscal remedies.

60. The inherent jurisdiction preserved under Section 482 of the Code of Criminal Procedure constitutes one of the enduring safeguards against misuse of the criminal process. The jurisdiction neither substitutes the function of the Trial Court nor authorises meticulous appreciation of evidence at the threshold. Its true office lies in preserving the purity of judicial process where continuation of criminal proceedings would defeat the administration of justice rather than advance it. The jurisdiction is invoked with restraint, yet restraint cannot mature into judicial indifference where the materials placed before the Court fail to disclose the legal foundation of the prosecution.

61. A criminal Court derives jurisdiction not merely because allegations have been narrated in the First Information Report but because those allegations, if accepted at their highest, disclose every statutory ingredient constituting the offences alleged. Criminal law visits conduct with penal consequences

only after the constituent elements defined by the legislature are demonstrably present. The Court, therefore, bears the responsibility of examining whether the factual assertions satisfy the legal architecture of the penal provisions invoked.

62. The factual chronology emerging from the present record possesses considerable significance. The import of the betel nut consignment through the Petrapole Land Customs Station, the appointment of Opposite Party No.2 as the customs clearing agent, the prolonged delay preceding release of the consignments, the deterioration of the imported goods during that interval, the petitioners' request seeking extension of transit declarations, the prolonged administrative silence, the subsequent disposal of the damaged consignments upon payment of taxes, and finally the initiation of proceedings under the West Bengal Value Added Tax Act, all stand reflected from contemporaneous records. These events preceded the institution of the criminal complaint.

63. The penalty proceeding initiated under Section 79 of the West Bengal Value Added Tax Act culminated in an adverse determination against the customs clearing agent. It is only thereafter that the application under Section 156(3) of the Code of Criminal Procedure came to be presented before the Learned Magistrate. The chronology, by itself, may not determine criminal liability; nevertheless, chronology frequently illuminates the surrounding circumstances within which criminal proceedings emerge. Temporal proximity between fiscal adjudication and criminal prosecution becomes a

relevant circumstance while examining whether the criminal process has been employed for a purpose recognised by criminal jurisprudence.

64. The record further reveals that the complainant simultaneously invoked the jurisdiction of the West Bengal Taxation Tribunal challenging the very fiscal proceedings from which the present dispute originates. The statutory remedy available under the specialised fiscal legislation was thus consciously pursued. Such conduct demonstrates that the dispute substantially concerns the correctness of the proceedings initiated under the taxing statute and the liability arising therefrom.

65. The existence of a civil or fiscal remedy does not, by itself, exclude criminal liability where the factual foundation independently satisfies the ingredients of a penal offence. Equally, the mere invocation of penal provisions cannot convert every commercial or statutory dispute into a criminal prosecution. The distinction rests not upon the nomenclature employed by the parties but upon the presence or absence of the statutory ingredients constituting the alleged offence.

66. The Supreme Court, in ***State of Haryana & Ors. v. Bhajan Lal & Ors.***[1], formulated illustrative categories where exercise of the inherent jurisdiction becomes necessary to preserve the integrity of judicial process. Those illustrations neither constitute exhaustive principles nor rigid formulae. They continue, however, to provide valuable guidance while examining whether criminal proceedings disclose genuine prosecutorial purpose or merely

[1] 1992 SCC (Cri) 426

represent an attempt to secure collateral advantage through invocation of the criminal law.

67. The petitioners rely principally upon Categories 6 and 7 of the principles formulated in *Bhajan Lal (Supra)*. The submission deserves careful examination.

68. Category 6 contemplates situations where the statutory framework itself provides a complete mechanism for adjudication of the dispute. The materials placed before this Court reveal that proceedings under the West Bengal Value Added Tax Act had already commenced, notices had been issued, replies submitted, tax deposited, penalty imposed and statutory remedies invoked before the Taxation Tribunal. Every question concerning validity of the transit declarations, liability arising from transportation of goods and fiscal consequences flowing therefrom became the subject of adjudication before authorities constituted under the taxing statute.

69. The existence of such statutory proceedings does not automatically eclipse criminal jurisdiction. Nevertheless, where the criminal allegations substantially arise from the very issues pending before the specialised statutory forum, the Court owes a duty to ascertain whether the prosecution truly discloses an independent criminal offence or merely reproduces allegations already embedded within fiscal adjudication.

70. The sequence of events assumes further significance because the allegation of forgery itself emerged only after initiation of penalty proceedings. The complaint attributes criminal responsibility to the petitioners upon the premise that forged transit declarations shifted liability upon the customs

clearing agent. Whether such allegation possesses legal substance necessarily depends upon the materials collected during investigation and not merely upon the language employed in the complaint.

71. The prosecution has invoked Section 468 of the Indian Penal Code. The offence presupposes the existence of forgery as defined under Sections 463 and 464. A document becomes false only when the statutory conditions embodied in Section 464 stand fulfilled. The legislature has consciously employed precise language while defining the expression "making a false document". Criminal liability consequently attaches only after the prosecution establishes, through legally admissible evidence, that the accused participated in creation of such document in the manner contemplated by the statute.

72. The distinction assumes considerable importance because criminal jurisprudence recognises no doctrine of constructive forgery. Mere benefit arising from a document, mere possession of a document, or mere use of a document cannot, by themselves, satisfy the statutory definition where authorship remains unproved. The legislative text preserves a clear distinction between making a false document and deriving subsequent advantage from it.

73. The judgment of the Hon'ble Supreme Court in *Sheila Sebastian v. R. Jawaharaj (Supra)* reiterates this principle with remarkable clarity. The Supreme Court held that liability for forgery attaches to the maker of the false document. The statutory language cannot be enlarged by inferential reasoning so as to include persons whose participation in creation of the

document remains legally unestablished. Penal provisions demand strict fidelity to legislative expression because criminal liability carries consequences affecting personal liberty and reputation.

74. Applying these principles to the present record, the Court notices that the prosecution has not placed before the Court the original transit declarations alleged to have been forged. The investigation proceeded without recovery of those documents. No scientific comparison of disputed signatures with admitted writings has been undertaken. The charge-sheet discloses no opinion of any handwriting expert. No forensic material has been collected identifying either petitioner as the author of the disputed signatures.

75. These are not matters touching the weight of evidence alone. They relate to the very existence of the evidentiary foundation upon which the allegation of forgery rests. Where authorship of the alleged false document constitutes the central issue, absence of the primary document together with absence of scientific examination assumes considerable legal significance while examining whether continuation of prosecution serves the ends of justice.

76. The controversy presented before this Court also invites examination of a principle that repeatedly engages judicial attention, namely, the distinction between liability arising under a fiscal statute and criminal culpability attracting the penal consequences of the Indian Penal Code. The distinction is neither semantic nor procedural. It represents a foundational doctrine preserving the integrity of criminal jurisprudence while respecting the legislative architecture governing specialised statutory enactments.

77. The West Bengal Value Added Tax Act, 2003 constitutes a self-contained fiscal legislation regulating levy, assessment, collection and recovery of tax together with adjudication of disputes arising therefrom. The enactment prescribes a complete statutory mechanism enabling the competent authority to examine transportation of goods, validity of transit declarations, assessment of tax, determination of penalty and appellate or revisional scrutiny before specialised forums constituted for that purpose. Every stage of fiscal adjudication proceeds within a carefully structured statutory framework designed by the legislature.

78. The materials placed before this Court reveal that the authorities functioning under the said enactment exercised their statutory powers by initiating proceedings under Section 79 of the Act. Notices were issued, explanations were invited, replies were submitted and a reasoned order imposing penalty eventually came to be passed against the customs clearing agent. Dissatisfied with such determination, the complainant invoked the jurisdiction of the West Bengal Taxation Tribunal by preferring the statutory revision contemplated under the West Bengal Taxation Tribunal Act, 1987. The very issues relating to the transit declarations, the movement of the consignments and the fiscal consequences arising therefrom thus became the subject of adjudication before the specialised statutory forum.

79. This sequence assumes considerable significance. A legislature which creates a specialised adjudicatory framework simultaneously manifests its intention that disputes falling within that framework shall ordinarily receive examination by the authorities possessing technical expertise in the

concerned field. Such legislative design neither excludes criminal jurisdiction where a genuine offence is disclosed nor authorises parallel invocation of the penal law merely because fiscal proceedings have culminated adversely against one of the parties.

80. Criminal liability cannot emerge merely because fiscal liability has been determined. A taxing statute concerns itself with collection of revenue, determination of statutory obligations and recovery of public dues. Criminal law, on the other hand, visits conduct with penal consequences only after the constituent elements of an offence defined by the legislature stand established. The source, object and consequences of the two jurisdictions remain fundamentally distinct.

81. The Court cannot overlook that the allegations of forgery surfaced only after the penalty proceeding culminated in an adverse order against the complainant. Prior thereto, the controversy revolved entirely around transportation of goods, validity of transit declarations, extension of their operative period and the fiscal implications arising from movement of the imported consignments. The subsequent introduction of allegations under Sections 419, 420, 468 and 120B of the Indian Penal Code did not alter the essential character of the dispute unless the materials collected during investigation independently disclosed every statutory ingredient constituting those offences.

82. A criminal prosecution cannot derive legitimacy merely because allegations employ expressions such as "forgery", "cheating" or "conspiracy". The Court must ascertain whether the factual foundation corresponding to those legal

expressions finds support from legally admissible material. Criminal jurisprudence has consistently maintained that nomenclature cannot substitute substance. Penal liability flows not from the language employed in the complaint but from satisfaction of the statutory ingredients enacted by Parliament.

83. The present record reveals that the investigation has failed to recover the original transit declarations alleged to have been forged. No forensic comparison has been undertaken. No handwriting expert has examined the disputed signatures. No witness has identified either petitioner as the maker of the alleged false documents. The allegation of cheating similarly remains detached from the indispensable requirement of deception operating at the inception of the transaction. The accusation of conspiracy remains equally bereft of material indicating any meeting of minds directed towards commission of an illegal act.

84. Against this evidentiary background, the Court cannot permit the fiscal proceedings to furnish the sole foundation for continuation of criminal prosecution. Acceptance of such a proposition would obliterate the carefully maintained distinction between statutory liability and penal culpability. Every adverse fiscal determination could thereafter be transformed into a criminal proceeding merely by attributing allegations of forgery or deception without satisfying the statutory requirements governing those offences. Such an approach would enlarge the field of criminal law far beyond the limits contemplated by the legislature.

85. The Supreme Court has repeatedly observed that criminal law must preserve its character as an instrument for redressing genuine criminal conduct and cannot become a means for securing strategic advantage in disputes substantially governed by civil, commercial or statutory adjudication. The jurisdiction preserved under Section 482 of the Code of Criminal Procedure exists precisely to prevent such transmutation where the criminal process ceases to advance the administration of justice and instead becomes ancillary to another contest already receiving adjudication before the forum designated by statute.

86. The facts of the present case demonstrate that the complainant actively pursued the statutory remedies available under the fiscal enactment by challenging the penalty before the West Bengal Taxation Tribunal and thereafter seeking settlement of the dispute before the same forum. Such conduct fortifies the conclusion that the controversy fundamentally remained one concerning fiscal liability. The subsequent invocation of criminal jurisdiction, unsupported by the essential evidentiary foundation required for prosecution under the Indian Penal Code, cannot be permitted to survive merely because the complaint employs language suggestive of criminality.

87. The distinction between statutory liability and criminal culpability constitutes a vital safeguard preserving the legitimacy of both jurisdictions. Fiscal statutes protect the public revenue; criminal law protects society against conduct which the legislature has declared to be offences. Conflation of these distinct fields would neither advance tax administration nor

strengthen criminal justice. It would instead expose commercial participants to penal prosecution in circumstances where the legislature intended specialised statutory adjudication.

88. Viewed through this jurisprudential lens, the present prosecution appears to derive its vitality from the adverse fiscal determination rather than from independent evidence disclosing commission of offences punishable under the Indian Penal Code. Continuation of such proceedings would therefore blur the carefully preserved boundary separating fiscal adjudication from criminal prosecution, a consequence that the law neither contemplates nor encourages.

89. The jurisdiction preserved under Section 482 of the Code of Criminal Procedure occupies a distinctive position within the criminal justice system. It neither constitutes an appellate forum for appreciation of evidence nor authorises premature adjudication upon disputed questions of fact. The jurisdiction exists to preserve the integrity of judicial process, prevent misuse of criminal proceedings and secure the ends of justice where continuation of prosecution would cease to possess a legally sustainable foundation.

90. The exercise of such jurisdiction has consistently been guided by principles evolved through judicial precedent. Beginning with ***R.P. Kapur v. State of Punjab***[2] and receiving comprehensive exposition in *State of Haryana v. Bhajan Lal (Supra)*, the Supreme Court has repeatedly observed that where the allegations contained in the First Information Report, together with the

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[2] 1960 SCC OnLine 21: (1960) 3 SCR 388

materials collected during investigation, fail to disclose the constituent elements of the offences alleged, the High Court owes a constitutional and statutory obligation to intervene. Such intervention neither trenches upon the jurisdiction of the Trial Court nor substitutes appreciation of evidence. It merely ensures that criminal law remains confined within the limits prescribed by statute.

91. The decision in ***Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra***[3] reiterates that the High Court should ordinarily refrain from entering upon appreciation of disputed facts while exercising jurisdiction under Section 482 of the Code. At the same time, the judgment does not diminish the duty of the Court to ascertain whether the allegations, even if accepted in their entirety, disclose the commission of a cognizable offence.

92. Judicial restraint cannot mature into judicial abdication where the materials collected during investigation fail to satisfy the statutory ingredients constituting the alleged offences. The principle received further elucidation in ***Haji Iqbal @ Bala v. State of Uttar Pradesh & Others***[4]. The Supreme Court recognised that where surrounding circumstances reveal that criminal proceedings have been instituted for collateral purposes or as a consequence of another dispute receiving adjudication before a competent forum, the High Court is not confined to a mechanical reading of the First Information Report. The chronology of events, the conduct of the parties, contemporaneous documents and the investigative materials collectively illuminate the true character of the prosecution. The inherent jurisdiction

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[3] (2021) 19 SCC 401

[4] (2024) 15 SCC 776

would lose much of its efficacy if the Court were compelled to disregard circumstances that plainly emerge from the record and instead remain confined to isolated recitals contained in the complaint.

93. The jurisprudence governing allegations of forgery stands equally well settled. *Sheila Sebastian v. R. Jawaharaj (Supra)* authoritatively explains that criminal liability under Sections 463 and 464 of the Indian Penal Code attaches only to the maker of the false document. The statutory definition admits no enlargement through inference or assumption. Before prosecution under Section 468 can legitimately continue, the investigation must disclose material capable of identifying the accused as the author of the false document. Such requirement is not a matter touching merely the sufficiency of evidence; it forms part of the very legal foundation of the offence itself.

94. Examined against these settled principles, the present prosecution reveals deficiencies extending beyond disputed factual assertions. The investigation has failed to recover the original transit declarations alleged to have been forged. No scientific examination of the disputed signatures has been undertaken. No handwriting expert has been associated with the investigation. No forensic opinion forms part of the charge-sheet. The prosecution thus seeks to establish forgery without the very evidence ordinarily indispensable for proving authorship of the alleged false documents.

95. The allegation of cheating stands upon no firmer foundation. The commercial relationship between the parties had already culminated in delivery of the imported consignments after completion of customs formalities. The

complaint does not disclose deception practised at the inception of that relationship or dishonest inducement resulting in delivery of property. The subsequent fiscal proceedings under the West Bengal Value Added Tax Act cannot retrospectively convert a completed commercial transaction into the offence of cheating unless the statutory ingredients prescribed under Sections 415 and 420 of the Indian Penal Code distinctly emerge from the materials collected during investigation.

96. The allegation of criminal conspiracy similarly remains unsupported by foundational facts. The record contains no material revealing concerted deliberation, prior arrangement or any circumstance from which a meeting of minds may legitimately be inferred. Mere repetition of the statutory expression "conspiracy" cannot substitute proof of the constituent elements required by law.

97. The Court remains conscious that meticulous evaluation of evidence belongs to the province of trial. Yet there exists a fundamental distinction between appreciation of evidence and examination of the existence of legally admissible material constituting the basis of prosecution. Where the investigation itself does not disclose the elementary materials necessary for establishing the statutory ingredients of the offences alleged, continuation of the criminal proceeding would merely postpone the inevitable while subjecting the accused to the burdens of a prosecution lacking legal foundation.

98. The power preserved under Section 482 of the Code is designed precisely to avert such consequences. The dignity of criminal jurisprudence is preserved

not merely by ensuring that offenders are prosecuted, but equally by ensuring that the coercive machinery of criminal law is not employed where the legislative requirements constituting the alleged offences remain absent. Liberty, reputation and fair administration of justice stand protected only when the criminal process is permitted to proceed upon legally sustainable foundations and not upon conjecture, assumption or consequences flowing from proceedings governed by an altogether different statutory regime.

99. The cumulative effect of the factual chronology, the investigative record and the governing legal principles leads this Court to the inescapable conclusion that the prosecution does not disclose the essential ingredients constituting the offences punishable under Sections 419, 420, 468 and 120B of the Indian Penal Code. The continuation of the criminal proceeding would therefore neither advance the cause of criminal justice nor fulfil the legislative purpose underlying the penal provisions invoked. Judicial intervention, in such circumstances, becomes necessary to preserve the sanctity of the criminal process and to maintain the distinction between suspicion and legally demonstrable culpability.

100. The allegations constituting the offence of cheating deserve equally careful scrutiny. Section 415 of the Indian Penal Code contemplates deception practised upon a person, accompanied by fraudulent or dishonest inducement resulting in delivery of property or alteration of a valuable security or legal position. Such fraudulent intention must exist at the inception of the transaction. Subsequent developments arising from

contractual performance or statutory adjudication do not, by themselves, retroactively infuse the original transaction with criminality.

101. The factual narrative presented by the complainant reveals that Opposite Party No.2 acted as the authorised customs clearing agent engaged by the petitioners for completing customs formalities. The import transaction proceeded through recognised statutory channels. Upon completion of customs formalities, the consignments together with the accompanying documents were admittedly delivered to the petitioners. The contractual obligations undertaken by the customs agent thereby reached their logical conclusion. No allegation has been advanced that, at the inception of the commercial relationship, the petitioners practised deception or induced the complainant to undertake customs clearance by any fraudulent representation.

102. The grievance subsequently projected by the complainant arose only after proceedings under the West Bengal Value Added Tax Act culminated in a penalty order against the customs clearing agent. The complaint attributes such fiscal liability to alleged misuse of transit declarations. Even if such allegation is accepted solely for the limited purpose of examining the First Information Report, the same does not satisfy the statutory ingredients constituting cheating. The complaint does not disclose any inducement leading to delivery of property by the complainant, nor does it reveal any representation made at the commencement of the transaction that was false to the knowledge of the petitioners. The essential legal architecture of Sections 415 and 420 of the Indian Penal Code thus remains absent.

103. The allegation under Section 419 of the Indian Penal Code proceeds upon the premise of cheating by personation. The record placed before this Court contains no material suggesting that either petitioner falsely represented himself to be another person before any authority or induced any individual by assuming a false identity. Mere assertion that signatures appearing upon certain documents were not genuine cannot, without further material, satisfy the constituent elements of personation contemplated by the statute.

104. The allegation of criminal conspiracy under Section 120B of the Indian Penal Code equally lacks substantive foundation. Conspiracy postulates a prior meeting of minds directed towards commission of an illegal act or a lawful act through illegal means. Direct evidence of conspiracy seldom becomes available; nevertheless, the existence of circumstances pointing towards concerted action remains indispensable. Suspicion, however strong, cannot substitute the legal requirement of material indicating conscious participation in a common design.

105. The investigation conducted in the present case has produced no circumstance demonstrating communication, planning or coordinated conduct from which a criminal conspiracy may reasonably be inferred. Apart from reproducing the allegations contained in the complaint, the charge-sheet remains silent regarding any material establishing the existence of an agreement between the petitioners or between the petitioners and any third person for commission of the alleged offences. The accusation under Section 120B, therefore, remains a bare legal conclusion unsupported by foundational facts.

106. The Learned Counsel for the petitioners has also placed reliance upon the decision of the Hon'ble Supreme Court in ***Haji Iqbal @ Bala (Supra)***. The principle emerging from the said decision deserves careful application. The Supreme Court has observed that while exercising jurisdiction under Section 482 of the Code of Criminal Procedure, the High Court is not constrained to remain confined within the four corners of the First Information Report where surrounding circumstances unmistakably reveal that criminal proceedings have been initiated for collateral purposes. The Court is competent to examine the attending circumstances, the chronology of events and the materials collected during investigation for ascertaining the true character of the prosecution.

107. Applying the aforesaid principle to the present record, the sequence of events acquires considerable significance. The petitioners approached the Commercial Tax Authorities seeking extension of the transit declarations before expiry of their validity. The authorities remained silent for several months. During that period the imported goods, according to the contemporaneous communications placed on record, continued to deteriorate. Taxes arising from the subsequent sale of the goods were deposited. Proceedings under the fiscal statute thereafter culminated in imposition of penalty upon the customs clearing agent. It is only after such determination that the application under Section 156(3) of the Code of Criminal Procedure came to be presented.

108. The complainant thereafter invoked the statutory jurisdiction of the West Bengal Taxation Tribunal by challenging the penalty proceedings themselves.

Materials placed before this Court further disclose that the complainant subsequently sought settlement of the fiscal dispute before the Tribunal and satisfied the penalty imposed under the taxing statute. These circumstances do not, by themselves, determine criminal liability. They nevertheless furnish the surrounding factual landscape within which the criminal prosecution came into existence and cannot be ignored while examining the legitimacy of the continuation of the proceedings.

109. The cumulative effect of these circumstances persuades this Court that the controversy substantially originates from fiscal proceedings governed by a self-contained statutory framework. The criminal allegations derive their genesis from the consequences flowing from those proceedings rather than from any independent criminal design demonstrable through legally admissible material.

110. The principles illustratively formulated in ***State of Haryana & Ors. v. Bhajan Lal & Ors. (Supra)*** continue to provide valuable guidance. The present prosecution bears close resemblance to the categories where criminal proceedings deserve judicial intervention because the allegations, even if accepted at their highest, fail to disclose the constituent elements of the offences alleged and where the surrounding circumstances indicate that the criminal process has been invoked for securing collateral advantage arising out of another dispute. Criminal law cannot be permitted to become an instrument for exerting pressure in matters essentially governed by specialised statutory adjudication.

111. This Court remains conscious that the inherent jurisdiction is exercised with circumspection. Such jurisdiction cannot substitute appreciation of evidence during trial. At the same time, compelling an accused to undergo the rigours of a criminal trial where the investigation itself fails to disclose the legal ingredients of the alleged offences would amount to permitting the process of the Court to travel beyond the limits prescribed by law. The object of criminal procedure is to secure justice, not to perpetuate proceedings lacking a legally sustainable foundation.

112. The investigation in the present case has failed to secure the original documents forming the basis of the allegation of forgery. No forensic examination has been undertaken. No expert evidence has been collected. The materials gathered during investigation do not identify either petitioner as the maker of any false document. Equally, the allegations fail to disclose deception at the inception of the commercial transaction or circumstances constituting personation or criminal conspiracy. The prosecution, therefore, remains deficient in respect of every principal offence forming the basis of the charge-sheet.

113. In these circumstances, continuation of G.R. Case No.1566 of 2010 arising out of Bongaon Police Station Case No.542 of 2010 would not advance the administration of criminal justice. Judicial intervention thus becomes necessary to preserve the distinction between criminal culpability and statutory fiscal liability and to ensure that the criminal process retains its character as an instrument for redressing genuine offences rather than becoming a means for advancing collateral objectives.

114. Accordingly, the revisional application succeeds.

115. In view of the above discussions, the criminal proceeding being G.R. Case No.1566 of 2010 arising out of Bongaon Police Station Case No.542 of 2010 dated 23rd November, 2010, together with Charge Sheet No.445 of 2012 dated 28th July, 2012, the order dated 27th September, 2012 taking cognizance and every consequential proceeding arising therefrom, stands quashed.

116. The revisional application being CRR 54 of 2014 is, accordingly, allowed.

117. The criminal revisional application being CRR 54 of 2014 stands disposed of. Connected application, if any, also stands disposed of.

118. Case Diary, if any, to be returned.

119. There is no order as to costs.

120. Let the copy of this judgment be sent to the Learned Trial Court as well as the police station concerned for necessary information and compliance.

121. All parties shall act on the server copy of this judgment duly downloaded from the official website of this Court.

**(Ananya Bandyopadhyay, J.)**