IN THE HIGH COURT AT CALCUTTA

CRIMINAL REVISIONAL JURISDICTION

APPELLATE SIDE

Present:-

HON'BLE JUSTICE CHAITALI CHATTERJEE DAS.

CRR 1333 OF 2023

SUDEB SARKAR

VS.

THE STATE OF WEST BENGAL & ANR.

WITH

CRR 2344 OF 2023

TRIPTI SARKAR HAWLADAR

VS.

THE STATE OF WEST BENGAL & ANR.

For the Petitioner	:	**Mr. Bikash Ranjan Bhattacharya, Sr. Adv.** **Mr. Robiul Islam, Adv.** **Mr. Raju Mondal, Adv.** **Mr. Massoq Rahman, Adv.**
For the State **(CRR 1333 of 2023)**	:	**Mr. Madhusudan Sur, Ld. APP.** **Mr. Dipankar Pramanick, Adv.**
For the State **(CRR 2344 of 2023)**	:	**Ms. Faria Hossain, Adv.** **Mr. Saibal Krishna Dashgupta, Adv.**
Last heard on	:	**17.02.2026**
Judgement on	:	**13.05.2026**
Uploaded on	:	**13.05.2026**

CHAITALI CHATTERJEE DAS, J. :-

1. This revisional application has been filed for quashing the criminal proceeding pending before the Court of learned Chief Judicial Magistrate, North 24 Parganas at Barasat under Section 323/324/420/371/406/506/34 of the Indian Penal Code arising out of G.R case no. 2243 of 2023.

Brief Fact of the case

2. The fact of the case in brief is that the opposite party no 2 lodged a petition of complaint before the Chief Judicial Magistrate, Barasat North 24 Parganas under Section 156(3) of the Criminal Procedure Code against the petitioners who are the practising advocate of the High Court at Calcutta with false and concocted story against her and her husband. It was alleged that the complainant and one Arindam Roy started, Matua TV and thereafter for extending the business they planned to have own building by purchasing some lands. After that Arindam Roy introduced the complainant with the petitioner and on being assured the complainant paid some money to the accused no.3 that is her husband for purchasing land. After that, according to the complaint, the petitioners delayed the matter and when the complainant went to the house of the present petitioners on 11.5.2022 demanding return of money, he was abused and assaulted and threatened with dire consequences, and thus he went to Habra police station lodged a G.D.E, but failed. On receipt of such complaint, the direction was given by the learned court to the concerned police station to treat the complaint as an F.I.R and to investigate

the matter without being influenced by the sections incorporated in the petition. Hence this revisional application.

<u>Submissions</u>

3. The learned Senior Advocate, Mr Bikash Ranjan Bhattacharya would submit that both Arindam and complainant opened Matua TV Centre and they had a business relation when the present petitioners are advocate by profession. There is no ingredient to attract 420/406 or any other charges as levelled against them. The charge sheet has been submitted and no charge under Section 371 was established. Ramchandra Patel is not cited as witness in the charge sheet. The complainant, Ramchandra Patel and Arindam were the partners and in course of their business transaction some amount was paid which might have been received by the petitioners being the advocate hence no criminality is attached with it. It is further argued that there is no ingredient to constitute any offence under Section 420 IPC. Furthermore it is the settled proposition of law that both the charges under Section 420/406 of the Indian Penal Code cannot go simultaneously. The learned Senior Advocate relied upon a decision of the learned Co-ordinate Bench, passed in ***2025: CHC -AS : 1371 D.K. Enterprises Private Limited and another versus the state of West Bengal and another***. Accordingly prayed for quashing of the proceeding as otherwise it would be sheer abuse of the process of law.

4. Learned Prosecution in both the matters on the other hand argued that allegation made transferring Rs. 17,30,000/- by the complainant to the account of the petitioner and from Ram Chandra Patel's account and accused Arindam's account paid on several occasions for purchase of land and the rest amount was taken in cash . It is further stated that primarily the materials collected supports the prosecution case and as the charge sheet has been submitted the proceeding should not be quashed as it involves huge amount.

Analysis

5. Heard the submissions. A complaint under Section 156(3) of the Code of Criminal Procedure was filed before the learned Chief Judicial Magistrate at Barasat by the present opposite party no. 2 against the present petitioners along with one Arindam Ray. From the complaint it can be found that there was a partnership between the complainant, Arindam Roy and others and they opened Matua TV centre at Habra, and after passing few months, Arindam Roy and others encouraged the complainant to purchase some land for the purpose of construction of a building for Motua TV Centre. Accordingly, the complainant paid an amount of ₹20 lakhs to the account of Arindam Roy on 4.11.2019. It is further contention of the complainant that he got the said amount by way of loan and also collected from his provident fund and his friend Ramchandra Patel, who paid the rest of the amount. Arindam Roy admitted by sending message that an amount of Rs.19, 78, 000 has been received. After that Arindam Roy called the Sudeep Sarkar and Tripti Sarkar, who are advocate by profession who assured the complainant to handover the land for purchase and that will be used for building Matua TV centre and they claimed Rs. 35, 00, 000 to the complainant as 50% share will be borne by the accused number 1 but he did not pay any money for this purpose. The complainant transferred Rs.17, 30, 000 to the account of Tripti Sarkar i;e the petitioner through his account and by way of Ramchandra Patel‘s account and accused Arindam Roy's account on various dates of different amount, for the purchase of said land. It would reveal that the present petitioner Tripti Sarkar alleged to have received ₹20 lakhs from the complainant step-by-step. The total amount paid as alleged by the complainant is of Rs. 32, 00, 000. After that when the accused persons did not show interest, then complainant tried to contact over telephone, who did not respond and then Arindam Roy and Sudeep Sarkar suppled a Xerox copy of site plan of R.S Dag number 75, 77, 78, 79, 80, 81 and 82 under Uluberia, G.L for the purpose of the said land only. On 11.5.2022, the complainant went to the house of Arindam Roy, along with witness for the return of his amount and then he was abused with filthy and obnoxious languages and on protest, the petitioner was assaulted by Arindam Roy and also threatened to implicate him in false cases, if he informed police station. After that the complainant lodged the complaint before the Habra Police Station on 11.5.2022, but no case was started or lodge any GD and then it was informed to the I.C of Habra PS through registered post on 14.5.2022 and also to the superintendent of police, North 24 Parganas on 17th.5.2022, and lastly, having no other alternative filed a complaint before the court under Section 156(3) of Cr.P.C.

6. The learned Senior Advocate tried to impress upon the court that the petitioners being advocates were related with the case because of their profession but they have been falsely implicated in this case and none of the charges are applicable against them. But it appears from the petition of complaint that it prima facie discloses, their involvement, not as professional person or acting under the instruction of their clients, but specific allegation levelled against them of receiving huge amount of money in their respective accounts from the concerned person on the pretext of handing over land. On perusal of the case, diary and the surrounding circumstances, primarily sufficient materials are found which primarily supports the contention of the complainant about receiving money. It is pertinent to mention herein that in the revisional application it is stated by the petitioner on oath that the complainant made a concocted story to recover the money which was spent for establishing and smooth running of Matua T.V .The monetary transaction were made as business transaction and the petitioners were never been paid any amount by the complainant. Therefore nowhere any of them said about their involvement as an advocate on the contrary it seems she was aware about the business transaction and that an amount was spent by the complainant.

7. The investigating officer collected the materials in course of investigation, including the bank statement and the transactions made from the accounts of the de facto complainant/Opposite Party no 2 to various account and then submitted the charge sheet against the petitioners. Fact remains no agreement in writing was executed between the parties .So far involvement of the present petitioners are concerned in the written complaint specific allegations are found against them who also claimed more or less 35 lacs and the complainant alleged to have transferred an hefty amount to the account of Tripti Sarkar .No legal document were executed by the petitioners in the capacity of an advocate rather the material collected by the I.O projected them as partner of the principle accused Arindam Roy.

8. Now the question arises whether both the allegation of cheating and criminal breach of trust are maintainable after the decision of ***Delhi Race Club(1940) Ltd. & Ors. vs State of Uttar Pradesh & Anr.***[1] as it was decided that the two provisions cannot go simultaneously .

9. The differences in the necessary ingredients were highlighted by the Hon'ble Supreme Court taking reference to the case of ***S.W. Palanitkar & Ors. vs State of Bihar & Anr.***[2]**.** In paragraph 9 it was held that ;

> *"9. The ingredients in order to constitute a criminal breach of trust are: (i) interesting a person with property or with any dominion over property, (ii) that person interested (a) dishonestly misappropriating or converting that property to his own use; or (b) dishonestly using or disposing of that property or wilfully suffering any other person so to do in violation (i) of any direction of law prescribing the mode in which such trust is to be discharged, (ii) of any legal contract made, touching the discharge of such trust.*
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> *10. The ingredients of an offence of cheating are: (i) there should be fraudulent or dishonest inducement of a person by deceiving him, (ii)(a) the person so deceived should be induced to deliver any property to any person, or to consent that any person shall retain any property; or (b) the person so deceived should be intentionally induced to do or omit to do anything which he would not to do or omit if he were not so deceived; and (iii) in cases covered by (ii)(b), the act of*

[1] 2024 INSC 626
[2] (2002) 1 SCC 241

omission should be one which causes or is likely to cause damage or harm to the person induced in body, mind, reputation, or property."

10. In this case apparently nothing is found which can be said to be entrustment of person with property or dominion over the property .The allegation is the accused persons being the partners induced the complainant to purchase a land for which an amount was paid by the complainant but that was not given nor the amount received. In this case as can be gathered that the allegation against the principle accused is to accept the complainant as partner to start Matua T.V Channel and took money from the complainant to purchase land for running the channel and being agreed to the same the complainant paid the amount to the petitioners who are allegedly the partners of Arindam Roy. So there is a possibility of deception and inducement from the inception but that cannot be ascertained at this stage while exercising power under section 482. The charge sheet has been submitted which prima facie establishes the allegations .The learned court while framing charge will have ample scope to consider whether the charges are applicable to the petitioners or not in the light of the decision of the Hon'ble Supreme Court .

11. It is the settled proposition of law that the inherent power being wide and expensive, has to be exercised, sparingly, carefully, and with caution, and only when such exercise if justified by the rests specifically lay down in the section itself Which are either to give effect to any order under the court, or to prevent the abuse of the process of any court or otherwise to secure the ends of justice. While exercising jurisdiction under Section 482, the Court should not act as a trial court no as a court of appeal or revision, and only to be satisfied prima facie about the existence of sufficient ground for proceeding against the accused persons. It was observed by then Hon'ble Supreme Court that it is not however, necessary that there should be meticulous analysis of the case before the trial to find out whether the case would end in conviction or acquittal. Apparently, on close scrutiny of the content of the written complaint as well as the materials collected in courses of investigation, nothing can be found to arrive with a conclusion that the complaint was lodged with any mala fide intention. Whether the amount were transferred to the accounts of the petitioners or whether those are connected with the allegations needs deeper scrutiny, which cannot come under the domain of this court while exercising.

<u>Conclusion</u>

12. Hence, this court is of the opinion that this is not an appropriate case when the proceeding can be said to be an abuse of the process of court, if allowed to be continued. Therefore, there is no merit in the revisional applications and are therefore liable to be rejected.

13. Accordingly the revisional application CRR 1333 of 2023 and CRR 2344 of 2023 stand dismissed. All other connected applications are hereby disposed of.

14. No order as to the costs.

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

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

[CHAITALI CHATTERJEE (DAS), J.]