Form J(1).
SL. No. 4
Ct No. 42

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

PRESENT:
THE HON'BLE JUSTICE UDAY KUMAR

CRR 1783 OF 2024

TABREJ ALI SAHA @ SHAH
VS.
THE STATE OF WEST BENGAL

Appearance:

For the Petitioner : Mr. Bibaswam Bhattacharjee
Mr. Tapan Kumar Mahapatra
Mr. Bodhisatya Bhadury
Mr. Poonnug Roy

For the State : Mr. Gurudas Mitra
Mr. Utsav Dutta

Heard on : 01.10.2026

Pronounced on : 01.10.2026

Judgment (Oral)

UDAY KUMAR, J.: –

1. By this criminal revisional application filed under Section 483 read with Section 482 of the Cr.P.C., the petitioner Tabrej Ali Saha approached this court challenging the order dated 8th March, 2024 passed by the Learned ACJM, Contai against an application under Section 173(8) of Criminal Procedure Code in G.R. Case No. 827 of 2023 arising out of Marishda P.S. Case No. 66 of 2023 dated 2nd April, 2023 under Section 341/323/325/379/472/506/34 I.P.C.

2. By the said order learned Trial Judge was pleased to refuse the prayer of the petitioner for further investigation. The core grievance of the petitioner is that the police investigation conducted was flawed one-sided and perfunctory. He contended that despite clear allegation of brutal attack, extortion was theft, the investigatory officer arbitrarily dropped serious charges under Section 307, 384, 325 and 379 of the Indian Penal Code from the charge-sheet, restricting the case only to minor offences. Furthermore, one of the named accused Sk. Faruk was dropped from the case, on the ground that he could not be located at the given address, while statement of eye witnesses named in the initial complaint were never recorded by the police under Section 161 of the Code.

3. Learned counsel for the petitioner argues that when the de facto complainant approached the trial court to correct these grave laches through further investigation the learned Magistrate rejected his prayer mechanically without applying his judicial mind or giving any cogent reasons.

4. To view of entire controversy in its proper perspective, it is necessary to trace how this dispute began. On January, 2022 around 19.45 am a tragic traffic accident took place near the Hena Petrol Pump, Betalia Stand under Marishda Police Station. The petitioner Tabraj Ali Saha was driving his Maruti car being no. WB 32AH 4174, when it collided with a local pedestrian Sk. Bahar Ali resulting in his unfortunate death. Naturally Marishda P.S. case no. 26/2023 was registered against him under Section 279/304 B of IPC.

5. According to the petitioner immediately after the accident family members and associates of the deceased Sk. Abdul Uddin and others surrounded his vehicle smashed the window, vandalize the car and physically assaulted him and his relatives with lathis, Iron rod and wooden sticks. He further alleged that amidst this chaos the assailants looted his car, stealing a bag containing vital original documents of land including L.R. and R.S. document and a civil records, jewelery receipt, a gold chain and cash Rs. 50,000/-.

6. Seeking to recovery his important documents and settle the matter peacefully the petitioner went to the house of Sk. Abdul Uddin on the morning on 2nd February, 2023. Instead of a peaceful discussion things turned violent. The petitioner was brutally attacked by Sk. Abdul Uddin with a wooden stick caused bleeding injury on his head. Sk. Fakruddin kicked him in the abdomen. Sk. Bapi grabbed him by the throat, nearly to chocking him, and Sk. Haru swung a wooden stick at his head which hit his shoulder when he ducked in self-defence. To add to his ordeal, his gold chain was snatched, and he was threatened with a sharp weapon and forced under duress to sign a blank Rs.10 stamp paper while accused demanded Rs. 5,00,000 for the return of his papers.

7. Because the local police initially delayed in taking action, the petitioner moved the learned Magistrate under Section 156(3) of the Cr.P.C. leading to registration of the instant case. Upon completion of investigation, the police submitted a charge-sheet on June 21, 2023 by dropping Section 325 in Section 379 of IPC and exonerating SK. Faruk. Left with no other option to recovery his stolen documents, case

records, the blank signed stamp paper, which poses a constant threat of fraudulent misuse, the petitioner filed an application for further investigation which the Trial Court dismissed on 8th March, 2026.

8. Defending the impugned order, Mr. Gurudas Mitra, learned counsel appearing for the state argues that this revisional application has been filed with a ulterior motive to prolong the legal proceeding and to harras the local residents in retaliation for the said fatal traffic accident. He submits that police conducted a fair and objective inquiry and finding no medical and independent corroboration for theft or grievous hurt, rightly submitted a charge-sheet under the appropriate sections. He further contends that the petitioner is not remediless as any formal error or omission in the charge-sheet can be duly address by the trial court during the trial by invoking power to add charges or summon additional persons if evidence so warrants. Therefore, he urges that this revisional application should be dismissed.

9. Having heard the learned counsel for both sides and upon careful examination to the case record and primary question before this court is whether the learned Magistrate has justified his refusing further investigation and whether this court should intervene under his inherent powers.

10. It is a well-established principle of criminal jurisprudence that a statutory power of further investigation under Section 173(8) of the Cr.P.C. is an essential tool to unearth the truth. While a magistrate cannot order a re-investigation or a fishing inquiry merely because a complainant is unhappy with a charge sheet, the court is equally bound

to ensure that a perfunctory or biased investigation does not lead to a miscarriage of justice.

11. In the present case the root of the dispute lies in aftermath of the tragic road accident where local tension naturally ran high. In such a volatile situation, the subsequent allegations regarding the looting of vital land records, cash, jewelry, and the coercion of signatures on a blank stamp paper under the threat of a weapon required a thorough and impartial inquiry.

12. The investigating officer dropped grave charges and discharged an accused based merely on a superficial address check, without even recording the statement of independent eye-witnesses named clearly in the original complaint. To allow a criminal trial to proceed on such an incomplete and defective police report would cause severe prejudice to the petitioner. More importantly, the unrecovered blank signed stamp paper poses an active and continuing threat of fraudulent manipulation against him. The Learned Magistrate failed to appreciate this vital aspect and rejected the application mechanically without assigning any sound reasons.

13. The Criminal revisional application CRR 1783 of 2024 is hereby allowed.

14. The impugned order dated March 8, 2024 passed by the learned Additional Chief Judicial Magistrate, Contai in G.R. case no. 827 of 2023, is hereby set aside.

15. The petitioner's application filed under Section 173 (8) of the Cr.P.C. stands allowed.

16. The Investigating agency/Officer in charge of Marishda is directed to conduct a comprehensive further investigation into the case keeping in mind the following direction:

    a. To properly examine and record the statements of the eye-witnesses named by de facto complainant in his written complaint

    b. To thoroughly investigate the allegations concerning the missing of original document, land records, cash gold ornaments and alleged coercion of signatures on the blank stamp paper and

    c. To submit a comprehensive supplementary charge-sheet or report filed before the learned Magistrate in accordance with law within a period of two months form the date of communication of this order.

17. The Criminal revisional application is, thus, disposed of.
18. Interim order, if any, stands vacated
19. There shall be no order as to costs.
20. Let a copy of this judgment along with the Trial Court Records (TCR) be transmitted to the courts below forthwith for necessary information and immediate compliance.
21. Case diary, be returned to the Learned Counsel for the State.
22. Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Uday Kumar, J.)

ASR