IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

PRESENT:

THE HON'BLE DR. JUSTICE AJOY KUMAR MUKHERJEE

CRR 1870 of 2024

Govind Kumar Gupta
Vs.
State of west Bengal & Anr.

For the Petitioner	:	Mr. Saswata Gopal Mukherjee Mr. Arkadeb Bhattacharya
For the Opposite Party no.2	:	Mr. Saurabh Guhathakurata Mr. Abhratanu Sarkar
For the State	:	Mr. Gouranga Kumar Das Mr. Imran Siddiqui
Heard on	:	28.07.2026
Judgment on	:	20.11.2026

Dr. Ajoy Kumar Mukherjee, J.

1. The present application has been preferred seeking quashment of the proceeding being GR(S) Case no. 45 of 2024 under section 120B/420/406/465/467/468/471 of the IPC presently pending before the court of learned Chief Metropolitan Magistrate, Calcutta.

2. In the FIR it is stated that the complainant company namely Cholamandalam Investment & Finance Co. Ltd. (in short CIFCL) engaged *inter alia* in the business of extending home loan to prospective customers.

It is alleged that one co-accused Biswajit Sinha (who is not the petitioner herein) intended to purchase the entire 3rd floor measuring 1600 sq. ft super build area together with a car parking space on the ground floor of the building at a locality under Haridevpur P.S for a sum of Rs. 86,000,00/- and applied for the home loan with all the relevant documents vide application no. 10036116 on 09.06.2023. A sanction letter was issued for the said loan application in favour of Co-accused Biswajit Sinha for a some of Rs. 62,000,00/- on 30.06.2023 for a term of 216 months and said Biswajit Sinha with all the co-applicant and guarantor signed the loan agreement with CIFCL along with his wife Sangita Sinha, mother Reba Sinha with both as co-applicants and Indranil Chakraborty as the guarantor for the loan account. Said Biswajit Sinha registered the property in his name vide sale deed no. 10462 of 2023 on 28.07.2023 and issued the cheque amount of Rs. 58,68,225/- in favour of Ganapati Construction vide cheque no. 637241 on the same day.

3. Said Biswajit Sinha started paying EMIs for the said loan account with the complainant company since July 2023 but suddenly he defaulted payment of the monthly instalment during October 2023. Owing to continuous default in payment of the monthly instalment in time, the company visited the property once again for cross-verification. The builder namely Petitioner herein Gavind Kumar Gupta denied about the fact that CIFCL has extended loan for purchase of the said flat. When countered with the facts, said Biswajit Sinha immediately committed to pay a sum of Rs. 5,00,000/- and also to close the loan account on or before 31st March, 2024. Out of committed amount of Rs. 5,00,000/- Biswajit paid a sum of

Rs.1,00,000/- apart from the monthly EMI to CIFCL and denied to meet in person or cooperate with the company. On account of the suspicious conduct of Biswajit's company, Complainant started to make enquiry and it was found that total four conveyance deeds were executed in respect of same property, out of which three are forged. It is alleged in the FIR that co-accused Biswajit Sinha, Sangita Sinha, Reba Sinha, Indranil Chakraborty and the present petitioner Govind Kumar Gupta and their associates are jointly involved and made criminal conspiracy in preparing the forged deeds.

4. On the basis of the above complain, Shakespeare Sarani Police Station Case no. 6 of 2024 dated 10.01.2024 was registered for investigation alleging commission of aforesaid offences by the petitioner and five others, under section 120B/420/406/465/467/468/471 of the IPC.

5. It is alleged that the complainant upon enquiry came to know that co-accused Biswajit Sinha had registered four different deeds being first deed no. 9663 of 2023 on 07.07.2023, second deed no. 8899 of 2023 on 01.07.2023, third deed no 9015 of 2023 on 03.07.2023 and fourth deed no. 10462 of 2023 on 28.07.2023 in respect of the same property and thereby availed multiple loan form different banks/financial institutions.

6. Being aggrieved, learned Senior counsel for the developer/accused/petitioner herein Govind Kumar Gupta submits that the petitioner is the proprietor of construction firm under the name and style M/s Ganapati Constriction, having office at 18 Vidyasagar Sarni, Natun Pally Kolkata-700008. The petitioner had been carrying on the said business for last several years and has requisite trade licence to carry on the businesses of construction of real estate projects. One Subrata Chakraborty

and other, being the owner of the property, entered into a registered development agreement with the petitioner in the year 2019 and by virtue of said development agreement, the owner had executed a registered power of attorney in favour of petitioner by virtue of which the petitioner was empowered to develop and construct a building on the said property as per sanction plan under the name “Ganapati Enclave”. Sometime in the month of May, 2023 one local broker introduced to the petitioner one prospective purchaser namely Sulata Sarder and her son Kunal Sardar. They showed their keen interest in purchasing a flat and being satisfied with the documentation and construction of the property they expressed their interest to purchase the entire 3rd floor of “Ganapati Enclave” admeasuring an area of about 1600 sq. ft and for which they made payment of Rs. 11,000/- in cash as a token money against issuance of money receipt. Subsequently said Sulata Sardar informed that aforesaid co-accused Biswajit Sinha would purchase the said 3rd floor at Ganpati Enclave and accordingly on 07.07.2023 the proprietorship firm of the petitioner M/s Ganpati Construction as the developer and aforesaid Subrata Chakraborty and others, being the land owner of the said plot of land, executed a deed of conveyance with co-accused Biswajit Sinha by virtue of which Biswajit Sinha purchased the said 3rd floor along with a car parking space against payment of Rs. 59,000,00/- comprising of Rs. 56,000,000/- towards 3rd floor and additional Rs. 3,00,000/- for car parking space. It is submitted by petitioner that said deed of conveyance was registered being deed no. 160209663 and that was the only deed executed by the petitioner with the application of the petitioner’s biometric. On the request of aforesaid Sulata

Sardar, the petitioner introduced them with the LIC Finance Ltd. for availing the requisite loan amount and the petitioner in due course had duly received the entire consideration amount of Rs. 58,25,000/- by way of cheque issued by Biswajit Sinha and rest of the amount from LIC Housing Ltd, though one cheque amounting Rs. 75,000/- issued by Biswajit Sinha in favour of Ganpati Constriction was dishonoured on account of insufficient fund. Thereafter the petitioner was informed by Sulata Sardar and Biswajit Sinha that they will not require the car parking space and accordingly demanded the petitioner to pay the balance sum of Rs. 3,000,00/- which was paid toward car parking space. Accordingly, after adjudging the dishonoured cheque amount of Rs. 75,000/- and Rs. 35,000/- paid by petitioner towards income tax for the car parking space, the balance sum of Rs. 1,90,000/- was refunded to Biswajit Sinha's bank account.

7. Petitioner's further case is that sometime in the middle of December, 2023, the bank officials of complainant company came to the office of the petitioner and disclosed that the said flat at the 3rd floor of "Ganpati Enclave" which was purchased by Biswajit Sinha from him, is being financed by them to Biswajit Sinha. However, since their phone no was switched off, the bank official could not contact them. On 09.01.2024 bank officials of another financial institution, Canara Bank visited the office of the petitioner and made similar assertion that Biswajit Sinha have availed loan form Canara Bank and they have financed Biswajit for purchasing the said flat at 3rd floor.

8. The petitioner upon gaining such information made enquiry with Registrar of Assurances, Kolkata through online platform and came to know

that Biswajit Sinha in collusion with some other miscreants and officials of Registrar of Assurances, by way of 3 deeds being deed no. 190210462 of 2023, deed no. 190208899 of 2023, deed no. 190209015 of 2023 executed the same property which was already executed and registered by deed of conveyance between Ganpati Construction and Biswajit Sinha on 07.07.2023 by way of deed no. 160209663 of 2023. The fake three deeds were executed on 28.07.2023, 03.07.2023, 01.07.2023.

9. Petitioner's counsel submits his client herein immediately applied for the certified copy of three deeds and upon perusing the same it was found that said forged deeds were created to extract loan from different financial institutions. Petitioner immediately after coming to know that his signature has been forged and a fake photo and false thumb impression is used to impersonate him as a party to the fake execution of three deeds of conveyance in respect of the said property by Biswajit Sinha and other miscreants, he lodged complain before Haridevpur police station, but the officer-in-charge of the said P.S refused to register the complaint and he treated the said written complaint dated 10.01.2024 as general diary. The petitioner did not stop there but lodged another complaint on 11.01.2024 before the Hare Street Police Station stating in detail how he has been impersonated by the miscreants. The Here Street police station also refused to register the FIR although patently a cognizable offence is clearly made out. Thereafter on 02.3.2024, the petitioner submitted another complaint before Haridevpur police station, Here Street police station, detective department Lal bazar P.S, stating in detail how accused person had opened bank account in the name of counterfeit Govind Kumar Gupta and issued

demand draft in the name of Govinda Kumar Gupta for the purpose of syphoning off funds from bank.

10. Mr. Mukherjee on behalf of Petitioner argued that that prior to the institution of impugned proceeding the petitioner had made several complaints before multiple competent public authorities narrating in detail how Biswajit Sinha, Sulata Sardar and other accused persons have impersonated the petitioner in different fake deeds, to attend their ulterior motive.

11. Learned counsel for the petitioner further argued that such complaint evidently goes to show that petitioner had no nexus whatsoever in the commission of alleged offence. Even in the forwarding report dated 03.04.2024 the investigating officer has categorically stated that during investigation of the instant case and upon scrutinising the seized deed of conveyance, it revealed that some other person had posed as petitioner and represented Ganpati Construction during the registration process. Therefore, petitioner prays for quashing the said proceeding qua the Petitioner Govind Kumar Gupta.

12. In reply learned counsel appearing on behalf of opposite party no. 2 submits that the petitioner's argument is solely based on the initial remand report which has no probative value in quashing the FIR against the petitioner. The initial remand report is based on the materials collected by the investigating agency at the threshold of the investigation. Investigation is at nascent stage and investigation is still in progress, so at this stage it would not be proper to quash the FIR. He further submits that FIR cannot be considered as encyclopaedia of the entire incident. The fourcorner of the

FIR and materials collected by the investigating agency, so far clearly established participation and involvement of the petitioner in the entire conspiracy of the offence committed by all the accused persons.

13. He further pointed out that there is a difference between quashing of an FIR and quashing of charge sheet. In case of quashing of an FIR High Court cannot consider any evidence nor can examine the truthfulness of any document, while in case of quashing of charge sheet, the High Court can consider all the materials collected after completion of the investigation. He further argued that all the points raised by petitioner are triable issues which can be decided at the stage of trial after adducing evidence by the parties and the High Court cannot quash the proceeding in such cases invoking its jurisdiction under section 528 of BNSS by conducting mini trial.

14. Learned counsel appearing for the State placed one report of the Investigating Officer dated 10.07.2026 by way of memo of evidence dated 29.06.2026 in support of further continuance of proceeding against the petitioner.

15. Having considered submission made on behalf of the parties it appears that only in the last paragraph of the FIR, it has been alleged that the present petitioner along with other co-accused persons are jointly involved. In the affidavit of opposition going beyond the contents of FIR, it has been stated that in all the aforesaid deeds petitioner is party and has received financial assistance from different financial organisations.

16. During the course of arguments, the learned counsel appearing for the opposite party no.2 has made the following arguments in support of alleged conspiracy made by the petitioner in creating the forged deed:

(A) The employees of the complainant company went to the office of the petitioner before the registration of the said deed of conveyance in favour of Biswajit Sinha but petitioner did not disclose to the finance company that the subject property has already been sold to Biswajit Sinha financed by LIC. This amounts to false representation and involvement of the petitioner in the conspiracy.

(B) After discussion with the petitioner, he assured the finance company to provide KYC and accordingly he has provided all documents to the employee of the finance company knowing fully well that the subject property already been sold to Biswajit Sinha financed by LIC. This constitutes *mens rea* and involvement of the petitioner in the conspiracy, who has actually played a pivotal role in the entire scam.

C) Before sanctioning the loan and at the time of the inspection of the subject property, technical manager of the complainant/company and the petitioner were present, who elaborated all the technical details of the said property to the technical manager of the complainant/company. Even at that stage also, the petitioner did not disclose that the subject property has already been sold to Biswajit Sinha financed by LIC. This proves active participation of the petitioner in the entire scam and the petitioner has very much conspired the criminal acts behind the curtain and he is the master mind of the entire conspiracy hatched by all other accused persons.

17. From the prosecution report dated 10.07.2026, it appears that the arrested accused Kunal Sardar had made a statement wherefrom it reveals that the developer, being the petitioner Govind Kumar Gupta was all along aware of the offence and allowed the fraudsters to get access in his property

multiple times to get the loan sanctioned from different financial institutions. Petitioner took financial benefit for the same in cash from the fraudster as appearing from the statement of co-accused Kunal Sardar. Further during investigation, the technical security report along with relevant photographs were seized. The photo confirms the petitioner's presence at the disputed property during the site visit by the complainant company before sanction of the loan is confirmed. The statement of officer Sujoy Kumar Das, area manager who conducted the site visit was also examined and it reveals therefrom that Govind Kumar Gupta had introduced himself as developer of the property and introduced accordingly during the site visit that was conducted before the loan was sanctioned. He also stated that Govind Kumar Gupta told him that accused Kunal Sardar and Chandan Naskar were his representatives. It also appears from the said report that the investigation of the case is complete.

18. Now in order to constitute an offence under section 120B of the IPC essential ingredients are as follows:-

> **(1)** *An agreement between two or more persons to commit an offence;*
> **(2)** *In doing so the accused either did or caused to be done:*
> **(i)** *An illegal act, or*
> **(ii)** *An act, which is not in itself illegal, by illegal means.*
> **(3)** *Such an act done or caused to be done was an offence punishable under the Indian Penal Code:*
> **(4)** *If the act so done was not an offence, then an overt act had been done by one or more parties to such agreement in pursuance thereof.*

19. Petitioner's specific case is that immediately after coming to know of the criminal offence, petitioner lodged as many as three complaints, the first one was made before Haridevpur police station on 10.01.2024 even before lodging of impugned FIR, petitioner made second complaint at Hare Street

P.S. on 11.01.2024 and on 02.03.2024 petitioner lodged third complaint before Haridevpur P.S., Commissioner of police Lal Bazar anti-fraud section, detective department. On 10.01.2024 based on the complaint lodged by Officer, Asis Saha of the complainant company, the present impugned investigation was started where it is alleged that the petitioner Govinda Kumar Gupta and his associates are jointly involved. During investigation though the other accused person were arrested but the petitioner was neither arrested nor his bank account or his firm's bank account was frozen by the investigating agency. The investigation is completed as appearing from Prosecution report dated 29.06.2026.

20. In the present case neither there is any allegation nor any material that petitioner has ever made any kind of representation to the complainant. There is no material that petitioner had induced any bank official to part with money or property. On the contrary the document on record shows that the petitioner was himself the victim of an elaborate fraud perpetrated by the co-accused persons. The I.O's report states that Debasis @ Babai Mazumdar impersonated Govind Kumar Gupta before the registering authority and Kunal Sarder is the kingpin who organized the offence and syphoned of the defrauded money. Fictitious bank account was opened in the name of Ganpati Constriction which did not belong to the petitioner or his firm. The defrauded amount was received and misappropriated by the co-accused persons and their associates and IO's report further revealed that forged documents were prepared by the other accused persons. Infact at the closure of investigation it does not attribute any overtact of the petitioner in relation to either the impersonation, preparation of forged

document, opening of fictitious bank account or receipt of any part of the alleged cheated amount. No pecuniary benefit has also appeared to be accrued to the petitioner. Neither his bank account nor that of his firm appears to have received any portion of the defrauded money. There is no specific allegation that any of the financial institutions were induced by any representation made by the petitioner to sanction loan or deliver any property and therefore the foundational fact required to constitute dishonest inducement has not been found during the investigation. On the contrary the documents demonstrate that the petitioner is victim of identity theft and impersonation. The investigation also reveal that the petitioner lawfully constructed the residential project "Ganapati Enclave" and executed a genuine registered deed of conveyance in favour of Biswajit Sinha upon receipt of lawful consideration. The deed was registered by using the petitioner's biometrics before the competent registering authority. It further appears that immediately upon discovering the fraud petitioner lodged complaints one after another before the police authorities, which conduct is wholly inconsistent with that of a person harbouring dishonest or fraudulent intention.

21. There is no allegation or any material collected during investigation that any property, money or document or valuable security was ever entrusted to the petitioner by the complainant or financial institution to attract offence under Section 406 IPC against the petitioner. The amount allegedly defrauded were credited to the bank account, which was opened and operated by the co-accused persons and were subsequently syphoned off by them. The I.O.'s report specifically attributes the acts of

impersonation, preparation of forged documents and receipt of the defrauded amount to the co-accused person and not to the petitioner. There is also nothing to show that the petitioner either prepared any forged document or participated in its preparation of any forged document as genuine and derive any pecuniary benefit from the alleged transaction. On the contrary the prosecution material established that the petitioner's identity, signature was forged by the co-accused persons for perpetrating the fraud.

22. In the present case it appears from the prosecution report that in order to level the charge of criminal conspiracy against the petitioner the prosecution relied upon following grounds namely:-

(a) Photograph of the petitioner with the co-accused person at the construction site.

(b) Statement of the bank official recorded under section 161 Cr.P.C. stating that he allegedly seen petitioner at the construction site along with co-accused person.

(c) From the statements of accused no. 2, 4 it reveals that petitioner had allowed access to the fraudster and showed the same to loan sanctioning authorities and allegedly, he took financial benefits from the fraudsters in cash.

23. In this context it appears that the petitioner is admittedly developer of the residential project "Ganapati Enclave" and the co-accused persons had approached the petitioner as prospective purchaser of a residential unit and had visited the construction site in connection therewith. Therefore, merely because the petitioner was photographed with the co-accused person at the

construction site hardly led to the conclusion that he had entered into a criminal conspiracy with them. None of the photographs relied by the prosecution discloses the commission of any illegal act or any conduct suggestive of a conspiratorial agreement. At best the photographs merely establish acquaintance or physical presence of the petitioner at the construction site, which is insufficient to attract offence under section 120B.

24. So far as the statement of an official of the complainant bank made under section 161 Cr.PC is concerned which states that the petitioner was present at the construction site along with co-accused person, even if taken at face value does not advance the prosecution case of conspiracy against the petitioner. The bank official is not an eye witness to any alleged agreement or meeting of minds between the petitioner and the co-accused persons to commit crime. His statement merely speaks about the petitioner's physical presence at the construction site. The said witness has not alleged that the petitioner made any false representation or furnished any forged document or impersonated any person or received any loan proceeds or induced any financial institution to part with any money. The statement infact does not speak any overt act attributable to the petitioner in furtherance of the alleged conspiracy. It is merely a suspicion that since the petitioner was present with the co-accused person at the site, he must have been involved with the criminal conspiracy.

25. Criminal conspiracy cannot be based on mere presumption or from mere association. There must be independent material evidencing an unlawful agreement which is absent in the present case. The prosecution has also failed to explain as to how the petitioner could be a conspirator

when the investigation reveals that Debasis @ Babai Mazumder impersonated the petitioner before the registering authorities. According to investigation Subrata Debnath and Sunit Mondal prepared the forged documents. Tamal Mukherjee opened the fictitious bank account in the name of Ganpati Construction and the defrauded loan amount was credited into accounts which did not belong to the petitioner or his firm. Moreover, there is nothing to show that the petitioner received any pecuniary benefit or had participated in the fraudulent loan transaction.

26. Though the opposite party no. 2/*de facto* complainant has stated in his affidavit-in-opposition that in all the aforesaid forged deeds petitioner is a party and had received financial assistance from different financial organizations/fraudsters but it appears that such allegation does not form part of the written complaint and opposite party no. 2 for the first time had made such allegation before this High Court after receipt of criminal revision application. Opposite party no. 2 has failed to disclose as to how he derives the knowledge that the forged deeds were prepared in connivance with the petitioner or petitioner received financial assistance from different financial organization, when during investigation nothing revealed to substantiate the same. So far as the flow of money is concerned, the report dated 03.04.2024 submitted by the investigating officer would make it clear that petitioner is not involved with the misappropriated money nor there is anything to show that any amount of misappropriated money was transferred to the account of petitioner or his firm. Therefore, from the prosecution documents it has not been established that the petitioner was involved in the purported scam. It has also not been established during investigation that the petitioner was

the mastermind or even a conspirator to the illegal transaction. Therefore, at the end of investigation no *prima facie* case has been made out against the petitioner in respect of any of the alleged offences under section 120B/420/406/465/467/468/471 of IPC.

27. It is settled law that conspiracy can't be inferred merely on the basis of suspicion or association but there must be cogent material indicating meeting of minds between the accused persons to establish a charge of conspiracy knowledge about indulgence in either an illegal act or a legal act by illegal means is necessary. In the present case except the allegation of the petitioner's presence at the sight during the alleged visit of officer of the complainant company, the prosecution has failed to show any substantive evidence, indicating prior agreement or concert between the petitioner and the principal accused persons. Mere acquaintance with the principal accused person if any, does not bring about even a *prima facie* element of conspiracy. FIR also does not speak of any overtact of the petitioner to constitute any cognizable offence against him. Even the statement made by the officer of the company under section 161 of the Cr.P.C does not help the prosecution case as it does not speak of foundational fact of conspiracy against the petitioner. Conspiracy has to be proved by conduct and surrounding circumstances but in the present case, the FIR and available materials *prima facie* failed to point out any conduct or circumstances that can reasonably led one to believe the existence of the conspiracy. Conspiracy must be founded on some facts either from the FIR or form the statement form witness or documents seized during investigation. Mere association with the accused person owing to business connection, in my opinion,

cannot give rise to an inference of meeting of mind between the petitioner on the one hand and other principal accused persons on the other hand to commit the act of forgery. The statement of the witness made during investigation even if taken to be true is not sufficient to come to a conclusive finding that the petitioner entered into an agreement with the principal accused persons. The principal accused persons may have good acquaintance with the petitioner but that is not sufficient to say that there was a meeting of mind between the petitioner and other accused person to plan the said act of forgery or misappropriation. The substantive evidence collected during investigation is unconvincing for allowing the criminal proceeding to continue against the present petitioner. Mere evidence of association is not sufficient for inferring an act of conspiracy.

28. Therefore clause (e) of paragraph 102 of **Bhajan Lal's case** reported in **1992 Supp (1) SCC 335** clearly attracts in the present context which says that-

> *"(e)* ***Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused****".*

29. Therefore, I do not find any justification for continuance of the present impugned proceeding against the petitioner in the absence of any *prima facie* case of committing cognizable offence against him even after completion of investigation.

30. CRR 1870 of 2024 is allowed.

31. The proceeding being GR(S) Case no. 45 of 2024 presently pending before the court of learned Chief Metropolitan Magistrate, Calcutta arising out of Shakespear Sarani P.S Case no. 6 of 2024 dated 10.01.2024 is hereby quashed, qua the petitioner **Govind Kumar Gupta**.

Urgent Xerox certified photocopies of this Judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(DR. AJOY KUMAR MUKHERJEE, J.)