

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

PRESENT:

THE HON'BLE DR. JUSTICE AJOY KUMAR MUKHERJEE

CRR 2090 of 2022

**Nani Gopal Biswas
Vs.
The State of West Bengal**

For the petitioner	:	Mr. Debabrata Ray Mr. Sankar Halder Mr. Soumik Mondal Ms. Sarbani Mukhopadhyay
--------------------	---	---

For the State	:	Mr. Rudradipta Nandy, Ld.APP
---------------	---	------------------------------

Heard on	:	02.12.2025
----------	---	------------

Judgment on	:	30.01.2026
-------------	---	------------

Dr. Ajoy Kumar Mukherjee, J.

1. Petitioner herein is aggrieved with the proceeding being Tehatta P.S. Case no. 431 of 2016 dated 01.08.2016 under section 467/468/471 of the IPC corresponding to G.R. Case No. 872 of 2016 presently pending before the Court of learned Judicial Magistrate, Tehatta. One Jahangir Mallick, Block Development officer (in short BDO) Tehatta, lodged a first information report alleging commission of offence pertaining to submission of six forged

affidavits in connection with prayer for delayed registration of birth, made by six respective persons as reported by Sub Divisional Officer Ranaghat,

2. Being aggrieved by the impugned proceeding Mr. Ray learned Counsel appearing for the petitioners submits that the petitioner is not FIR named and in the FIR no role has been attributed against the petitioner. However, after completion of investigation, the concerned police officer submitted charge sheet in prescribed form against the petitioner keeping column no. 11 as vacant. In column no.14 particulars of 6 witnesses have been mentioned, who are all instrumentalities of the State. No independent witness was cited, who are likely to be examined during trial in order to support the prosecution case.

3. He further submits that in final report the investigating agency incorporated the name of the petitioner in column no.12 without mentioning a single word about petitioner's role in connection with the alleged offence. The petitioner on receipt of police papers supplied under section 207 of Cr.P.C. came to learn that one FIR named accused namely Nur Hasan Sk, in his statement recorded under section 161 of the Cr.P.C., has mentioned his name, which is the basis of implicating him with the alleged offence. However, no seizure was made from the present petitioner. He further submits that it is trite law that investigating officer must fill up all the columns in the charge sheet, so that the court can clearly understand which crime has been committed by which accused and what is the material evidence available in the file. The role played by each accused in the crime should be separately and clearly mentioned in the charge sheet for each of the accused persons, which is clearly lacking in the present case and in this

context he relied upon the judgment of ***Sharif Ahmed & another Vs. State of UP and another***, 2024 INSC 363.

4. Mr. Ray in this context further argued that statement of a co accused during police custody cannot be the sole basis to place a person on trial. Unless the document is proved to be false and forged in terms of section 464 and 470 of the IPC, the requirement of section 471 does not arise. It is apparent from the record that the petitioner did not use the alleged document for his personal gain and he has also not used the same as genuine and therefore, the ingredients of cheating also does not attract and in this context he relied upon the judgment of ***Deepak Gava and ors. Vs. State of UP and another*** reported in (2023) 3 SCC 423.

5. Learned Counsel for the state opposed the prayer made by the petitioner and submitted that there are sufficient materials in the Case Dairy (CD) against the present petitioner in order to convict the petitioner and as such it would not be proper for the ends of justice to quash the proceeding at this stage. He also placed the CD for perusal of this court.

6. I have meticulously gone into the materials in the CD. It appears that after receiving complaint about submission of forged affidavit in connection with delayed registration of birth, BDO Tehatta had issued notice to 6 persons who are FIR named for hearing by letter dated 25.07.2016

7. It further appears from the minutes of the hearing dated 01.08.2016, copy of which was sent to concerned District Magistrate and Sub-Divisional officers, that in response to said notice dated 25.07.2016 and in regard to the letter issued by Sub-Divisional Magistrate, (SDM) Ranaghat, vide Memo No. 1423/EM dated 28.06.2016 in regard to the forged affidavit a hearing

was held on 01.08.2016 at 11 a.m., where out of 6 (six) FIR named accused persons three were present namely Kalipada Mondal, Jandar Sk and Nurhoshen Sk. It further appears from the minutes of the said hearing dated 01.08.2016 that FIR named accused Nurhoshen Sk. Stated to BDO that the petitioner took money from him and returned the forged affidavit to him. It also appears from the said minutes of hearing that the videography of the said hearing was recorded, which was also sent to the higher officers.

8. It also appears that on the same day the concerned BDO lodged FIR annexing soft copy of videography of conducting hearing along with a note of hearing.

9. During investigation the joint BDO, Bidhan Chandra Biswas made statement before police while examined, that the 3 (three) FIR named accused persons who attended the hearing submitted that they were not aware about the alleged offence but they have handed over money to the concerned persons including the petitioner who had procured the affidavit. Another witness Bhaskar Roy Chowdhury, BDO was also examined during investigation, who also made the similar statement. It further appears that while charge sheet was submitted the Investigating officer (IO) has stated that from the materials in the CD, collected during investigation, prima facie case under sections 467/468/471 IPC has been well established against all the accused persons including present petitioner.

10. Aforesaid extracted findings which appears to be against the petitioner accused highlights the facts that the statements on which reliance has been placed have been appreciated by the investigating officer and conclusion have been drawn, which fact would be suggestive of an eminent

requirement of appreciation of materials to be unravelled during trial, so as to arrive at the necessary finding on the core issue, which is petitioners involvement with the alleged offence.

11. For the purpose of quashing of the proceeding, though the power under section 482 of Criminal Procedure Code is to be used sparingly but it may be so exercised including the cases where:-

- (1)** The allegations in complaint/statements even if are taken at their face value, makes no case disclosing essential ingredients;
- (2)** Where the allegations are patently absurd and inherently improbable, that no prudent person can ever reach a conclusion that there are sufficient ground for proceeding;
- (3)** Where discretion exercised by the Magistrate in issuing process is capricious and arbitrary having based on no evidence or those are wholly irrelevant and inadmissible.
- (4)** Where it suffers from fundamental legal defects such as want of sanction, by competent authority.
- (5)** Most importantly such power can be exercised for:-
 - (a)** Prevention of miscarriage of justice.
 - (b)** Prevention of abuse of the process of law.
 - (c)** Continuance of the proceeding won't subserve the cause of justice.

12. Therefore, one of the main guideline for quashing criminal proceeding is where the allegations made in the FIR and the materials collected during investigation, even if they are taken at their face value and accepted in their

entirety do not prima facie constitute any offence or make out a case against the accused /petitioner.

13. In the instant case from the FIR lodged by the BDO after conducting personal hearing and after receipt of report from concerned Magistrate and also from the statement of the witnesses recorded during investigation, it does not suggest that the allegations made in the FIR against the complainant, if taken at their face value and accepted as true, it does not constitute any offence against the petitioner. Under section 463 of IPC, “forgery” means making a false document with intent to cause damage or injury to the public or to any person. A false document is stated to have been made when a person dishonestly or fraudulently makes a document with the intent of causing it to be believed that such document was made by someone else.

14. Section 471 of the IPC attracts when the accused fraudulently or dishonestly using or cause to be used as genuine any document which the accused knows or has reason to believe to be a forged document. The word ‘reason to believe’ as used in the section is the fact of the state of mind, whose existence or non existence can only be gathered during trial. In the instant case from the charge sheet it appears that the prosecution has made out a prima facie case against the petitioner to go for trial.

15. While exercising the inherent power by the High Court it must satisfy before quashing a proceeding that continuance of the proceeding would be a total abuse of the process of the court and therefore before passing an order of quashment, it must use proper circumspection with great care and caution to interfere in the charge sheet in exercise of its inherent jurisdiction. In the instant case on careful reading of the material in the CD

it cannot be said that the materials do not disclose the commission of an cognizable offence by the petitioner. The ingredients of the offences cannot be said to be absent on the basis of the materials. Now whether such allegations against the petitioner are otherwise correct or not, has to be decided during trial but simply because the petitioner is not FIR named, it cannot be said that continuance of the proceeding further against the present petitioner will be mere abuse of process of the court, which calls for interference by this court exercising this courts jurisdiction under section 482 of the Code of Criminal Procedure.

16. Courts in India have taken serious stand against the rampant practice of obtaining delayed birth certificate using false affidavit recognising it as a serious offence that undermines the integrity of vital records and leads to fraud with the issuing authorities and it needs stricter verification and accountability for both applicants and officials. Allahabad High Court has seriously deprecated such practice in Para 4 onwards in a case reported in **2005 SCC Online Allahabad 7768** as follows:-

4. Prima facie, it's a mess. It appears that anyone at any point of time can get a date of birth certificate issued with whichever date they want from wherever in the State. In one way, this shows the extent of dishonesty existing at all levels, and how easy it is to get these documents made which can be used as strong prima facie evidence of the facts stated therein, even for criminal prosecutions.

17. In view of aforesaid discussion I find that this is not a fit case where the criminal proceeding is liable to be quashed invoking this courts jurisdiction under section 482 of the code of the Criminal procedure.

18. CRR 2090 of 2022 thus stands dismissed.

19. However, I clarify that I have not expressed any opinion about the merit of the case. The petitioner shall have remedy at the time of charge hearing or at any subsequent stage to take all the points agitated herein.

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.)