

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

APPELLATE SIDE

Present:-

HON'BLE JUSTICE CHAITALI CHATTERJEE DAS.

CRR 2484 OF 2025

APARAJITA BISWAS

VERSUS

STATE OF WEST BENGAL & ANR.

For the Petitioner : Mr. Jayanta Narayan Chatterjee, Sr. Adv.

Mr. Sirsendu Sinha Roy, Adv.

Mrs. Paramita Mukhopadhyay, Adv.

Mr. Supreem Naskar, Adv.

Ms. Jayashree Patra, Adv.

Ms. Pritika Sinha, Adv.

Mr. N.K. Ghosh, Adv.

For the Opposite

Party no. 2 : Mr. Imtiaz Ahmed , Adv.

Mrs. Ghazala Firdous, Adv.

Mr. Sk. Saidullah, Adv.

Mr. Mithun Mondal, Adv.

Mr. Md. Arsalan, Adv.

For the State : Mr. Sanjay Bardhan, Adv.

Mr. Trina Mitra, Adv.

Last heard on : 05.03.2026

Judgement on : 10.06.2026

Uploaded on : 10.06.2026

CHAITALI CHATTERJEE DAS, J.:-

1. The application has been filed under Section 528 of the BNSS 2023 for quashing of the entire proceedings being GR no. 799 /2024, rising out of Hare Street Police Station case no. 195 of 2024 dated 24.8.2024, under section 118(1) 79 of the BNS, 2023, presently pending before the learned Judicial Metropolitan Magistrate, 10th Court at Calcutta.

Fact of the case

2. The petitioner is an unmarried lady residing with her sister in a portion of a residential house premises as mentioned in this petition and the opposite party no.2 is the sister-in-law of the petitioner. She is the wife of her cousin, brother Indranil Biswas, co-owner of the same residential house where the petitioner is residing who has been arrayed as an accused in a criminal case filed against her lodged by opposite party no. 2 on 24.8.2024 with a false and concocted story. The opposite party no.2 and her husband are practising advocate and member of Bar Association, High Court at Calcutta . It was alleged in the complaint that while they were waiting in the court premises for attending a case in the court of learned 3rd Executive Magistrate on 23.8.2024, the accused person/petitioner after hearing an adverse order, used filthy language towards Opposite Party no. 2 and her husband and also suddenly spread liquid substance on the face of the Opposite Party no.2 and run away from the court premises. The incident happened around 2:45 PM and no one could catch her being a lady. Water was poured on her face and eyes and also eye drop was used after purchasing it from local medical shop by

the husband and local people. It was also alleged that the accused tried to make her blind permanently and hence lodged the complaint.

3. It is the further case of the petitioner that the petitioner is owner by way of inheritance in respect of other movable valuable properties in Kolkata with her cousin being the husband of the Opposite Party no.2 and there has been a constant pressure upon her and her sister to transfer and convey their undivided, demarcated share in favour of the said cousin by way of deed of Gift and refusal to do the same she is being subjected to torture, threat and criminal intimidation by the Opposite Party no.2 and her husband. The dispute between the petitioner is actually over the property and Opposite Party no.2 also filed an application under section 107 of the Code of Criminal Procedure against the petitioner and two other sisters on 19.7.2024 before the learned Executive Magistrate at Calcutta being M.P case no. 284 /2024, which was heard by the court on 24.2.2025 and dropped the proceeding with an observation that as per police report, the dispute appears to be civil in nature and there is no sufficient ground for continuation of the proceeding as alleged. With respect to the complaint lodged by the Opposite Party no. 2 , the charge sheet has been submitted by the investigating agency under section 118(1)/79 of the BNS, 2023 on 31.12.2024, being charge sheet no. 244/2024, and the learned Magistrate has taken cognizance.

4. It is the further case of the petitioner that the Opposite Party no.2 also filed a case under Section 12/23 of the Protection of Women from Domestic Violence Act, 2012 against the petitioner and other two sisters to which the petitioners have submitted their written objection denying the allegations. The petitioner

had to surrender before the learned Chief Judicial Magistrate, Calcutta at she was enlarged on bail.

Submissions

5. The Learned senior advocate, Mr. Jayanta Narayan Chatterjee representing the petitioner relied upon the decision of **C.S. Prasad vs C. Satyakumar**¹ where it has been specifically held that civil adjudication does not bar criminal prosecution where ingredient of offence are disclosed. In view of the observation of the Hon'ble Supreme Court reported in **Madhav Rao Shiwaji Rao Scindia versus Sambhaji Rao Chandra Ji Rao Angre and others**² where it was held that:-

“the legal position is well settled that when a prosecution at the initial stages is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made, prima facie establish the offence. It is also for the court to take consideration any special feature which appeared in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is on the basis that the opinion of the court chances of an ultimate purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the

¹ 2026 INSC 39

² (1988)1 SCC 692

proceeding even though it may be at the preliminary stage.”

Accordingly prayed for quashing of the proceeding.

6. The Learned Advocate appearing on behalf of the Opposite Party 2 opposes such prayer and argued that the submission of chargesheet prima facie establish the allegations levelled against the petitioner . The injury report as well as other materials would suggest that sufficient materials exist which should be tested before the trial court. He further argued the scope and power of the court while exercising inherent jurisdiction and relied upon the decision of the Hon’ble Supreme Court in this regard and prayed for dismissal of the revisional application.

The submission advanced by the learned prosecution is that the investigation of the case is completed and charge sheet was submitted before the learned CJM Calcutta on 31.12.24. It is also submitted that preliminary a document or injury report is found which shows that some liquid substance was thrown on her face and eye on 23.8.24, which caused burning sensation over the eye and face. Therefore, because of the existence of sufficient materials, the proceeding should be allowed to be continued before the learned trial court.

Analysis

7. Having heard both the learned Advocates and on perusal of materials on record apparently, as it can be gathered that the root cause of the dispute pertains to the ancestral property and the respective undivided share of the present petitioner and her sisters along with the husband of the Opposite

Party no.2 over the said inherited property. It is a settled proposition of law that mere filing of a civil proceeding does not bar criminal prosecution where ingredients of offences are disclosed. In this case the nature of allegation levelled does not appear to be a civil dispute, but might be emanated from civil dispute. It further appears that in course of investigation, primarily, certain materials are found which supports the contention of the complainant. Even though name of the present petitioner was not revealed before the doctor, but it is evident that a liquid substance was thrown to her eyes which caused burning sensation.

8. In the decision of *Abhishek versus state of Madhya Pradesh*,³ as relied upon, it was held that while examining the complaint/FIR, quashing of which is sought the court cannot embark upon an enquiry as to the reliability or genuineness, or otherwise of the allegations made there in, but if the court thinks fit, regard being had to the parameters of quashing and self-restraint imposed by law, the court would have jurisdiction to quash the complaint. Further held that false implications by way of general omnibus allegations, if left and not checked, not only would result in misuse of the process of law, but a criminal trial, leading to an eventual acquittal, would inflict a severe scar upon the accused and such an exercise is to be discouraged.

9. Section 118 of Bharatiya Nyaya Sanhita, 2023 deals with voluntary causing hurt or grievous hurt by dangerous weapon or means which reads as follows:

“Section 118. Voluntarily causing hurt or grievous hurt by dangerous weapons or means-

³ (2023) 16 ACC 666

1. *Whoever, except in the case provided for by sub-section (1) of section 120, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine which may extend to twenty thousand rupees, or with both.*

2. *Whoever, except in the case provided for by sub-section (2) of section 120, voluntarily causes grievous hurt by any means referred to in sub-section (1), shall be punished with imprisonment for life, or with imprisonment of either description for a term which shall not be less than one year but which may extend to ten years, and shall also be liable to fine.”*

10. In the case of ***P.V Krishnabhat and Anr. Versus State of Karnataka and others***⁴, the Hon’ble Supreme Court held that criminal law should not be used as a tool for harassment or vendetta. The allegations in a criminal complaint must be scrutinised with care to ensure that it disclose a prima facie case before subjecting individuals to the rigour of criminal trial. In the

⁴ 2025 SCC online SC 484

present case it is also found that the husband of the complainant made statement before the learned Magistrate under Section 183 BNSS and narrated the same fact and hence having such material before the court, where the allegations prima facie disclose cognizable offence on the face of the complaint, defence material or counter allegations are irrelevant at threshold stage of criminal enquiry as observed in **Abhishek Singh versus Ajay Kumar and others in**⁵ by the Hon'ble Supreme Court. In this case, the Hon'ble court referred the case of **Rajiv Kourav vs Baisahab**⁶, where it was held in paragraph 8,;

“8. It is no more res integra that exercise of power under section 482 Cr.P.C. to quash a criminal proceeding is only when an allegation made in the FIR or the charge sheet constitute the ingredients of the offence /offences alleged. Interference by the High Court under Section 482 Cr.P.C. is to prevent the abuse of process of any court or otherwise to secure the ends of justice. It is settled law that evidence produced by the accused in his defence cannot be looked into by the court, except in very exceptional circumstances, at the initial stage of the criminal proceedings. It is trite law that the High Court cannot embark upon the appreciation of evidence while considering the petition filed under section 482 CRPC for quashing criminal proceedings. It is clear from the law laid down by this court that if prima facie case is made out, disclosing the ingredients of the offence alleged against the accused, the court cannot quash a criminal proceeding.”

⁵ 2025 INSC 807

⁶ (2020) 3 SCC 317

Conclusion

11. Therefore, in view of the above observations and the facts of the case when prima facie a case has been made out and the petitioner has failed to establish that the proceeding to be quashed ,essentially on the ground that such motive of wreaking vengeance and hence this court is of the view that the guilt or innocence of the petitioner is to be established in the trial in accordance with law and is not a fit case where the power under section 528 of BNSS can be applied and the proceedings to be quashed.

12. Accordingly this C.R.R 2484 of 2025 is hereby dismissed .Case Diary be returned.

13. Urgent certified copy of the order, if applied for, be provided to the parties upon observance of all necessary requirements.

[CHAITALI CHATTERJEE (DAS), J.]