

583.

Ct.29

30.01.2026

Bd.

CRR 2729 of 2025

Sk. Rejaul Hossain

-vs-

The State of West Bengal & Ors.

Mr. Kalidas Saha
Ms. Khusi Mollick ... for the petitioner.

Mr. Debayan Ghosh ... for the opposite party no.2

Mr. Arup Kumar Bhowmick ... for the opposite party nos. 3 & 4.

Mr. Md. Anwar Hossain
Mr. Amanul Islam ... for the State.

This is an application wherein the petitioner has prayed for quashing of the impugned order dated 24.04.2025 passed by the learned Chief Judicial Magistrate, Malda, in connection with G.R. Case No. 6149 of 2023 whereby the Court below has rejected petitioner's prayer for further investigation.

Being aggrieved by the impugned order learned counsel for the petitioner submits that petitioner herein filed application for further investigation on 21st September, 2024, on the ground that during investigation it clearly reflected that the accused is guilty of embezzlement of huge amount of money. However, the investigating agency only submitted charge-sheet under section 406 of the Indian Penal Code. The investigating agency failed to consider that the allegation under section 420 of the IPC has also been well established against the petitioner. Therefore, he made the aforesaid prayer before the court below, who failed to appreciate such prayer.

Learned counsel appearing on behalf of the opposite parties submits that the Trial court was justified in refusing the petitioner's prayer for further investigation. They further submits that in view of judgment passed in **Delhi Race Club (1940) Ltd. – vs- State of U.P., 2024 SCC Online SC 2248** and subsequent judgments, a proceeding on the allegation of cheating and criminal breach of trust cannot co-exist on the basis of same set of facts. Therefore, the order impugned does not call for interference by this High Court.

On perusal of the order impugned, it appears that learned Public Prosecutor did not find any deficiency, which necessitates for further investigation. Court below also did not find any inappropriate action on the part of investigation agency. Needless to say that the sections of the IPC or BNS mentioned in a charge-sheet are secondary to the evidence and documents collected during the investigation. A charge-sheet is technically a final report filed under section 173(2) of Cr. P.C. (Section 193 of BNSS), which basically gives outlines of allegations but the Court's focus at the time of taking cognizance and at the stage of charge-hearing would be on the substantive materials collected during investigation.

Having heard learned counsel for the petitioner and the opposite parties, and also in view of the materials placed before me, I do not find any substance to interfere with the order impugned dated 24.04.2025 invoking this Court's jurisdiction under section 482 of the Code of Criminal Procedure.

Therefore, the instant application being CRR 2729 of 2025 stands dismissed.

However, this dismissal order will not prevent the petitioner to agitate all his points before the court below at the time of charge hearing or at any subsequent stage and in that event court below will act in accordance with law uninfluenced by any section mentioned in the charge-sheet or any observation made herein.

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

(Dr. Ajoy Kumar Mukherjee, J.)