

In Re: **Sukumar Bas & Ors.**

...Petitioner

Mr. Moyukh Mukherjee,
Mr. Abhijit Singh,
Ms. Sagnika Banerjee,
Ms. Sarmistha Basak,
Mr. Koustav Bhattacharya.

.... For the Petitioner.

Mr. Debasish Roy, Ld. PP,
Mr. Arijit Ganguly,
Mrs. Debjani Sahu.

.... For the State.

1. This revisional application is filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of the proceedings of T.R Case No. 288 of 2022 arising out of G.R Case No. 1569 of 2019 corresponding to Durgapur Police Station Case No.449 dated September 18, 2019 under Section 34 read with Sections 341/323/427/506 of the Indian Penal Code, 1860 pending before the Court of the learned Judicial Magistrate, 3rd Court at Durgapur, Paschim Bardhaman.
2. The present petitioner No.3 and the de-facto complainant married in the year 2013. The petitioner Nos. 1 and 2 are the parents-in-law, petitioner No.4 is the married sister of the petitioner No.4 and the petitioner No.5 is arrayed as a party by the de-facto complainant.
3. It is submitted by the learned Advocate of the present petitioner that the present complaint, lodged under Section 156(3) of the Cr.P.C is a counter blast to the complaint lodged by the present petitioner No.3 under Sections 498A/406/34 against the de-facto

complainant and in-laws and on completion of investigation the charge-sheet was submitted against the de-facto complainant. This complaint has been lodged under Section 156(3) falsely implicating the present petitioners in respect of an incident allegedly to have been taken place on 5th August, 2019 at about 11.30 p.m. No ingredients are there in order to attract any of the Sections mentioned in the charge-sheet.

4. It is further submitted that the in course of investigation, at the time of filing charge-sheet the allegations for commission of the offence under Section 380 was not established and, therefore, charge-sheet was not submitted under the said Section.
5. It is further submitted that this is absolutely a tailor made complaint lodged with false, vexatious and malicious allegation without having any basis for the same. Accordingly, prays for quashing of the said proceeding.
6. Per contra the learned Prosecution raises objection and submits that enough materials are there in the case diary to attract the charges leveled against the present petitioners especially petitioner Nos.3 and 7.. That apart, since the charge-sheet has submitted, on completion of the investigation, the petitioners must face the trial.
7. Heard the submissions of both the learned Advocate. On perusal of the written complaint, the allegations found e leveled against the present petitioners in respect of an incident allegedly took place on 5th August, 2019 at about 1.50 pm when the present petitioners forcefully entered into the house of the complainant and abused him physically and further threatened him. He

sustained injury and treated by doctor. It was further alleged that his house was ransacked and also the present petitioners took away Rs.10, 000/- along with some gold ornaments.

8. On careful perusal of the case dairy it transpires that the statements of three witnesses were recorded who are the relatives as well as the employee of the de-facto complainant. From the statement of the de-facto complainant himself it reveals that he did not visit any doctor to be treated him. This averment, prima facie, contradicts the statement made in the written complaint which was affirmed by him by way of an affidavit that on sustaining injury he was treated by doctor.
9. It is trite law nevertheless fundamental that where the proceeding is manifestly attended with mala fide and instituted maliciously with an ulterior motive for wrecking vengeance with an objective to spite him due to private and personal grudges, it would be just and proper to quash the proceedings as the same amounts to abuse of the process of court.
10. In order to curb the menace of false and frivolous complaint lodged frequently by the litigants the Hon'ble Supreme Court has time and again imposed various restrictions to lodge complaint under Section 156(3) of Cr.P.C. In the case of **Anurag Bhatnagar and Anr vs State (NCT OF Delhi) 2025 INSC 895** it was considered whether an application under Section 156(3) Cr.P.C have been filed without approaching the police Authorities and discussed the provision enumerated under Section 154, 156 and Section 190 of the Code of Criminal Procedure.

11. In order to set the criminal law in motion one of the mode of giving information to the police regarding commission of cognizable offence who will reduce in writing and may investigate the case even without permission of the Magistrate . Section 154(3) of the Cr.P.C lays down in the event such information is not recorded by the police or refused to record it the recourse is to intimate the Superintendent of the police and also by post who after being satisfied will either direct the police to investigate or may himself investigate the matter .
12. Therefore the first approach is to be made before the police and in the event the complainant feels aggrieved will inform the S.P and thereafter will move the Court to get the FIR registered. Pursuant to section 156(3) the Magistrate is empowered to take cognizance in three contingencies ,i) upon receiving a complaint of facts constituting offence ii) upon police report iii) upon information received .It was held by the Hon'ble Supreme Court that *“on a conspicuous reading of the provision of section 154 ,156 and 190 crpc together it is crystal clear that an informant who wants to report about commission of a cognizable offence has to comply the first two conditions and then approach the court who will take cognizance in accordance in accordance with section 190 Cr.P.C.”*
13. In this case in the complaint under Section 156(3) it was mentioned that intimation was given to the Commissioner of Police, Durgapur Police Commissionerate on August 13, 2019 but no measure was taken hence the complaint had to be lodged before the Court but it is seen that he never approached to the

police station .Therefore admittedly the provision as enumerated in Section 154 was not followed. It therefore it goes without saying said that the mandatory provision as well as the decision of the Hon'ble Supreme Court has been violated. It is now settled that Magistrate while directing for registering an FIR has to apply his independent mind based upon legal principles which is also found missing in the instant case.

14. The inherent power of the High Court under Section 482 of the Code of Criminal Procedure is wide enough. However, that power should be exercised sparingly and not arbitrarily but also in the exceptional cases where there is gross abuse of the process of law. In the case of ***Pradeep Kumar Kesarwani Vs. State of Uttar Pradesh, CRIMINAL APPEAL NO.3831 OF 2025 (@ SPECIAL LEAVE PETITION (CRL.) NO. 11642/2019***, the Hon'ble Supreme Court has set out four steps test frame work to apply by the High Courts for considering the application for quashing under Section 482 Cr.P.C . In paragraph 20 it has been held :

20 The following steps should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C.:-

(i)Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the materials is of sterling and impeccable quality?

(ii) Step two, whether the material relied upon by the accused, would rule out the

assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice? If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal – proceedings, in exercise of power vested in it under Section 482 of the Cr.P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused. [(See: Rajiv Thapar & Ors. v. Madan Lal Kapoor (Criminal Appeal No. 174 of 2013)]

15. On a close scrutiny of the content of the complaint lodge prima

facie, contradiction in the statements of the de-facto complainant regarding treatment before the doctor is found apparent which in a way prima facie suggest the falsity of the complaint made by the de-facto complainant. Further corroborated from the case diary that the investigating authority also could not established the charge under Section 380 of the Indian Penal Code because of lack of materials. So the allegation of regarding taking away an amount of Rs. 10.000/- from the Almirah was not establish .In addition no explanation could be found as to why there has been a delay in intimating the police authority or lodging any complaint by the de-facto complainant for a period of one month when the incident happened on 5th August, 2019.

16. Therefore, on conspectus of entire facts and circumstances of this case, this Court is of the view that no such convincing materials can be found to allow this present proceeding to continue further against the present petitioners and hence the proceeding stands quashed.

17. Hence, this revisional application stands allow.

18. No order as to costs.

19. The department is directed to forward the T.C.R along with this order to the concerned Court for information and taking necessary action.

20. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

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

(Chaitali Chatterjee (Das), J.)