

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.R. 2092 of 2010

Dilip Singh & Anr.

-Vs-

The State of West Bengal & Anr.

With

C.R.R. 3258 of 2010

Surajit Mitra @ Nantu

-Vs-

The State of West Bengal & Anr.

For the Petitioner : Mr. Sourav Chatterjee
Mr. Shiladitya Banerjee

For the State : Mr. Saryati Dutta
(In CRR 2092/2010)

For the State : Mr. Imran Ali
(In CRR 3258 of 2010)

Judgment on : 30.03.2026

Ananya Bandyopadhyay, J.:-

1. These instant revisional applications are filed by the petitioners praying for quashing of proceedings being G.R. Case No. 2542 of 2009 pending before the Learned Additional Chief Judicial Magistrate, Sealdah, South 24-Parganas arising out of Manicktala Police Station Case No. 378/09 dated 31st July, 2009 under Sections 120B/420/376 of the Indian Penal Code and all orders passed

therein including the order dated 21.11.2009 passed by the Learned Additional Chief Judicial Magistrate, Sealdah, South 24- Parganas thereby refusing to transfer the case and directing the Officer-in-Charge, Manicktala Police Station to investigate the case as it was and to submit report.

2. The petitioners are businessmen by profession and carry on business of tours and travels under the name and style of "Mitra Travels". The petitioners stated that the petitioners along with one Surajit Mitra (petitioner in CRR 3258 of 2010) have been arraigned as accused persons in the instant case being Manicktala Police Station Case No. 278/09 dated 31st July, 2009 under Sections 120B/420/376 of the Indian Penal Code, which was registered for investigation on the basis of written complaint lodged by the opposite party no. 2, *inter alia*, on the basis of the following allegations:-

"that the Opposite Party No. 2 was known to the petitioner No. 2 for the last 10 years; that the Opposite Party No. 2 went to the petitioner No. 1 for engaging herself in car business and the petitioner No. 1 introduced her to one Surajit Mitra, the owner of 'Mitra Travels' in the month of January, 2009; that thereafter the Opposite Party No. 2 came to know that the petitioner No. 2 is the cousin brother of the said Surajit Mitra; that after some days the Opposite Party No. 2 and the said Surajit Mitra became close to each other; that the said Surajit Mitra had disclosed to her that he is an unmarried person; that during the month of July, 2009 the said Surajit Mitra approached the Opposite Party No.2 for marrying her and the Opposite Party No.2 herein also relied upon the same; that on 25th July, 2009 the petitioners along with the said Surajit Mitra asked the Opposite Party No.2

for accompanying them to Tarapith; that in good faith, the Opposite Party No.2 agreed to such proposal and they left for Tarapith on the same day; that after sometime, the Opposite Party No.2 realised that they were not going to Tarapith but to another place and ultimately the Opposite Party No.2 and the petitioners reached Mandarmani and checked themselves in at a hotel namely Mainak Hotel; that on the same day in the evening the said Surajit Mitra came to the room of the Opposite Party No.2 and cohabited with her; that on the same date at night the said Surajit Mitra ravished her twice and also assured that very soon he will marry the Opposite Party No.2; that thereafter on 27th July, 2009 when the Opposite Party No.2 tried to contact the said Surajit Mitra, he abused her in filthy language and denied such relationship; that on the same day, the Opposite Party No.2 came to know that the said Surajit Mitra is a married person."

3. The petitioners submitted the allegations levelled against the petitioners in the impugned first information report are palpably false in as much as a bare reading of the written complaint disclosed the Opposite Party No.2 were not aware the address of the petitioner no.2 herein, whereas, she herself in paragraph 1 of the written complaint alleged to have known the petitioner no.2 for past 10 years. On the face of the allegations, it appeared the same were *mala fide*, false and had been engineered with the sole objective of instituting criminal proceedings against the petitioners and to exert pressure upon them with an oblique motive.
4. The petitioners submitted that the allegations in the complaint even if are believed to be true and are taken to their entirety disclose the commission of

offences as alleged or at all by one Surajit Mitra and none else. In view of the same, further continuation of the impugned proceedings so far as it relates to the present petitioners was an abuse of the process of the Court and deserves to be quashed and/or set aside to prevent abuse of the same and otherwise to secure the ends of justice.

5. The petitioners submitted that the impugned first information report was lodged after a protracted delay inasmuch as the Opposite Party No.2 was allegedly ravished by the said Surajit Mitra on 25.7.2009, she came back to Kolkata on 26.7.2009, but after a lapse of further 5 days, lodged the complaint on 31.7.2009. No explanation, far less plausible was given by the Opposite Party No.2 justifying such inordinate delay in lodging the complaint and in absence of the same, a possibility of an afterthought and concoction cannot be ruled out.
6. The petitioners submit that even if the allegations in the complaint are believed to be true, the investigation in the instant case cannot be conducted by the police officers attached to Manicktala Police Station in view of the fact that the alleged offences did not take place within the territorial jurisdiction of such police station. A bare reading of the formal part of the impugned complaint disclosed the place of occurrence was at "Hotel Mainak" which had been situated at Mandarmani, District: Purba Medinipur. In view of the same, the impugned proceedings deserved to be quashed and/or set aside inter alia on the ground of lack of territorial jurisdiction.
7. The petitioners submitted that since all the alleged acts as per the Opposite Party No.2 took place at Mandarmani, the Courts at Sealdah, South 24 Parganas did not have the jurisdiction to deal with the impugned proceedings, neither

does the Manicktala Police Station had jurisdiction to continue with the investigation.

8. The petitioners submit that the allegations in the impugned complaint and the materials on record do not disclose the essential ingredients of the offences punishable under Sections 120B/420/376 of the Indian Penal Code and as such the impugned criminal proceedings pending against the present petitioners was not maintainable in law and was liable to be quashed.
9. The petitioners submitted that no case under Sections 120B/420/376 of the Indian Penal Code had been made out against the present petitioners and as such there was nothing that points out or establishes the culpability of the petitioners.
10. The petitioners submit that further continuation of the impugned proceedings shall amount to an abuse of the process of the court and it was expedient in the interests of justice that the impugned proceedings be quashed and/or set aside in order to prevent the abuse of the process of the Court or otherwise to secure the ends of justice.
11. The petitioners submit that it was an apposite case where this Hon'ble Court may invoke its inherent powers under Section 482 of the Code of Criminal Procedure and quash and/or set aside the impugned proceedings to prevent the abuse of the process of the Court or otherwise to secure the ends of justice.
12. The Learned Advocate representing the petitioners further submitted as follows:-
 - i. The petitioner in CRR 3258 of 2010 namely, Surajit Mitra @ Nantu had been alleged to be the principal accused. The petitioners in CRR 2092 of

2010 namely, Dilip Singh and Partha Chowdhury are the friend and cousin respectively of the said Surajit Mitra @ Nantu.

- ii. The present case was initiated at the behest of the Opposite Party No. 2 who had lodged a written complaint and set the criminal law into motion, inter alia, alleging as follows:-

“that the Opposite Party No.2 was known to one Partha Chowdhury for the last 10 years; that the Opposite Party No.2 went to one Dilip Singh for engaging herself in car business and the said Dilip Singh introduced her Surajit Mitra @ Nantu, who is the owner of 'Mitra Travels' in the month of January, 2009; that thereafter the Opposite Party No.2 came to know that the said Partha Chowdhury is the cousin brother of Surajit Mitra @ Nantu; that after some days the Opposite Party No.2 and Surajit Mitra @ Nantu became close to each other; that Surajit Mitra @ Nantu had disclosed to her that he is an unmarried person; that during the month of July, 2009 Surajit Mitra @ Nantu approached the Opposite Party No.2 for marrying her and the Opposite Party No.2 herein also relied upon the same; that on 25" July, 2009 the said Dilip Singh and Partha Chowdhury along with Surajit Mitra @ Nantu asked the Opposite Party No.2 for accompanying them to Tarapith; that in good faith, the Opposite Party No.2 agreed to such proposal and they left for Tarapith on the same day; that after sometime, the Opposite Party No.2 realized that they were not going to Tarapith but to another place and ultimately the Opposite Party No.2 and the said Dilip Singh and Partha Chowdhury reached Mandarmani and checked themselves in a hotel namely Mainak

Hotel; that on the same day in the evening Surajit Mitra @ Nantu came to the room of the Opposite Party No.2 and cohabited with her; that on the same date at night Surajit Mitra @ Nantu ravished her twice and also assured that very soon he will marry the Opposite Party No.2; that thereafter on 27i July, 2009 when the Opposite Party No.2 tried to contact Surajit Mitra @ Nantu, he abused her in filthy language and denied such relationship; that on the same day, the Opposite Party No.2 came to know that Surajit Mitra @ Nantu is a married person.”

- iii. During the course of investigation, on 2.9.2009 the Investigating Agency made a prayer before the Learned Additional Chief Judicial Magistrate, Sealdah, South 24 Parganas for transferring the case to Ramnagar Police Station for further investigation on the point of territorial jurisdiction. By order dated 2.9.2009 the Learned Magistrate fixed 21.11.2009 as the next date for hearing on such point. Thereafter by the impugned order dated 21.11.2009, the Learned Magistrate mechanically and without application of his judicial mind rejected such prayer of the Investigating Agency and further directed the Officer-in-Charge, Manicktala Police Station to investigate the case as it was and to submit report.
- iv. It was submitted that even if the allegations in the First Information Report are believed to be true, the investigation in the instant case cannot be conducted by the police officers attached to Manicktala Police Station in view of the fact that the alleged offences did not take place within the territorial jurisdiction of such police Station. A bare reading of the formal part of the impugned First Information Report discloses that the place of

occurrence was at "Hotel Mainak" which was situated at Mandarmani, District: Purba Medinipur. In view of the same, the impugned proceedings deserve to be quashed and/or set aside inter alia on the ground of lack of territorial jurisdiction.

- v. The impugned First Information Report was lodged after a protracted delay in as much as the Opposite Party No.2 was allegedly ravished by the petitioner on 25.7.2009, she came back to Kolkata on 26.7.2009, but after a lapse of further 5 days, lodged the First Information Report on 31.7.2009. No explanation, far less plausible explanation was given by the Opposite Party No.2 justifying such inordinate delay in lodging the First Information Report and in absence of the same, a possibility of an afterthought and concoction cannot be ruled out.
- vi. According to the FIR, the Opposite Party No. 2 was known to accused Partha Chowdhury (Petitioner no. 2 in C.R.R. No. 2092 of 2010) for more than 10 years and the accused Dilip Singh (Petitioner no. 1 in C.R.R. No. 2092 of 2010) who was engaged in car business was approached by the Opposite Party No. 2 herself for entering into car business. The FIR further alleges that accused Dilip Singh introduced the Opposite Party No. 2 to Surajit Mitra @ Nantu (Owner of Mitra Travels) in January 2009. It was alleged that subsequently Partha Chowdhury also introduced the Opposite Party No. 2 to Surajit Mitra @ Nantu, who was a cousin of Partha Chowdhury. It had been further alleged in the FIR that the Opposite Party No. 2 and the three accused persons communicated just like friends between themselves and in the meantime, the Opposite Party No. 2 and the

said Surajit Mitra @ Nantu developed a love affair and the said Surajit Mitra @ Nantu disclosed that he was unmarried. That in beginning of July 2009, the said Surajit Mitra @ Nantu approached her for marriage which she relied in good faith. With regard to these allegations, it was respectfully submitted that the same was patently absurd and patently improbable in as much as the Opposite Party No. 2 herself had stated in her FIR that after being introduced to Surajit Mitra @ Nantu and Dilip Singh through Partha Chowdhury, they were all mixing like friends. Hence, it would be quite improbable that despite mix like friends the Opposite Party No. 2 who was not a naive woman, on the contrary happens to be businesswoman would not know Surajit Mitra @ Nantu was an unmarried individual.

- vii. The second part of allegation in the complaint was to the effect that on 25.07.2009 all the accused persons offered the Opposite Party No. 2 to travel to Tarapith, to which she agreed, and they left for such trip; however, on the way she realised that instead of Tarapith, they had travelled to Mandarmani, Purba Medinipur and they checked in at Mainak Hotel. In respect of this allegation, it was respectfully submitted that whenever one travels to Tarapith from Kolkata, after crossing Second Hooghly Bridge (Vidyasagar Setu) and Kona Expressway, one had to turn right towards Delhi road to reach Tarapith which was in the district of Birbhum whereas to go to Mandarmani, one had to turn left and approach Bombay Road and travel towards Contai and take a right turn from Contai towards Mandarmani. Therefore, it was palpably absurd that the Opposite Party No. 2 could not even realise that instead of Tarapith, the car carrying her along

with the petitioners was infact going towards Mandarmani. It was nobody's case that she was drugged and/or unconscious en-route. Moreover, after being checking in to Mainak Hotel as alleged, the Opposite Party No. 2 neither left the same nor raised any hue and cry in respect thereof.

- viii. The complaint further would disclose that the Opposite Party No. 2 had alleged that on the same evening of 25.07.2009 Surajit Mitra @ Nantu violated her in Mainak Hotel, which made her mentally upset but being a lady she had no way to leave. She had further alleged that on the same day again at night the said Surajit Mitra @ Nantu violated her twice in Mainak Hotel and thereafter on 26.07.2009, Surajit Mitra @ Nantu along with the other petitioners and the Opposite Party No. 2 returned back and Surajit Mitra @ Nantu assured her that very soon he would marry her. She had also alleged that on 27.07.2009, Surajit Mitra @Nantu informed the Opposite Party No. 2 that he was already married and hence it would be impossible to marry the Opposite Party No. 2. In respect of the aforesaid, it was respectfully submitted that the Opposite Party No. 2 did not raise any alarm/hue and cry while being allegedly diverted to Mandamani instead of Tarapith, she made no complaints while getting lodged and checking in to Mainak Hotel at Mandarmani. Moreover, having checked in to Mainak Hotel without any protest she claims to had been violated in the evening. Even after such alleged violation in the evening, she did not raise any alarm, far less getting out of the hotel or atleast seeking help from the hotel staff. Instead, she continued stay in the said Mainak Hotel till Surajit Mitra @Nantu allegedly again violated her twice at night. Thus, after being

allegedly violated once in the evening and twice at night in a hotel premises at Mandarmani, the Opposite Party No. 2 strangely did not make any noise far less any complaint in respect thereof. It was equally surprising that despite such repeated acts of alleged violation she stayed back in the said Mainak Hotel and left with Surajit Mitra @ Nantu and the other two petitioners on 26.07.2009. Such conduct and/or demeanour of the Opposite Party No. 2 clearly militates against the allegation of being tricked into a hotel and being subjected to multiple rounds of sexual violation. Equally dubious was the stance of the Opposite Party No. 2 that she was completely unaware that Surajit Mitra @ Nantu was a married individual whereas in Paragraph no. 5 of her FIR she had not only stated that she mixed with Surajit Mitra @ Nantu, Dilip Singh and Partha Chowdhury as friends for months but also in Paragraph no. 1 and 4 of the FIR, the Opposite Party No. 2 had also alleged that she knew Surajit's Cousin, Partha Chowdhury since 10 years. Having known Surajit's family for several years and having communicated as friends over a protracted period of time it was patently absurd that the Opposite Party No. 2 will not be aware that Surajit Mitra @ Nantu was infact a married person.

- ix. It was clear that the theory of Surajit Mitra @ Nantu allegedly not disclosing his marital status to the Opposite Party No. 2 was out and out mala fide and had been engineered to support out and out false and frivolous allegations.

- x. The Learned Advocate representing the petitioner relied on the case of **Haji Iqbal alias Bala versus State of Uttar Pradesh & Ors.**, reported in **(2024) 15 SCC 776**, wherein it was held as follows:-

“14. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc. then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of

time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.”

- xi. Without prejudice and without admitting any allegations, it was submitted that the entire complaint and the allegations contained therein clearly indicate that a consensual act had been belatedly sought to be criminalized by twisting facts and setting false narratives in a mala fide manner. The Opposite Party No. 2 was a businesswoman and was 28 years old at the time of alleged incident and hence, she was well aware of the consequences of free mixing and going out for an overnight trip with male companions, with one of them she had been romantically involved. Her conduct immediately before and after the alleged incident in no way supports the allegation of rape including the allegation of rape on basis of false promise of marriage.
- xii. The Learned Advocate for the petitioner further relied on the case of :

a) ***Dr. Dhruvaram Murlidhar Sonar versus State of Maharashtra &***

Ors., reported in (2019) 18 SCC 191, was inter alia held as follows:-

“2. The appellant is Accused 1 in the aforesaid FIR, registered at the instance of the complainant Respondent 4. At the relevant point of time, the appellant was serving as a Medical Officer, Primary Health Centre at Toranmal, Dhadgaon Taluq, Nandurbar District, whereas the complainant was working as an Assistant Nurse at the same establishment. The allegations made by the complainant in the FIR in brief are that her husband died on 5-11-1997, leaving behind her and her two children. During this time, the appellant informed her that there have been

differences between him and his wife, and therefore, he is planning to divorce his wife. Further, the appellant informed the complainant that since they belong to different communities, a month is needed for the registration of their marriage. Therefore, she started living with the appellant at his government quarters.

3. The FIR further states that she had fallen in love with the appellant and that she needed a companion as she is a widow. Therefore, they started living together, as if they were husband and wife. They resided sometimes at her house and sometimes at the house of the appellant. The appellant acted as if he has married her and has maintained a physical relationship with her. However, he has failed to marry her as promised. When things stood thus, his brother i.e. Accused 2, claims to have married her. Thereafter, in the year 2000, complainant received the information from the co-accused about the marriage of the appellant with some other woman. Therefore, she filed the aforesaid complaint and FIR dated 6-12-2000 came to be registered against the appellant and the co-accused.

...

17. Thus, Section 90 though does not define "consent", but describes what is not "consent". Consent may be express or implied, coerced or misguided, obtained willingly or through deceit. If the consent is given by the complainant under misconception of fact, it is vitiated. Consent for the purpose of Section 375 requires voluntary participation not only after the exercise of intelligence based on the knowledge of the significance and moral quality of the act, but also after having fully exercised the choice between resistance and assent. Whether there was any consent or not is to be ascertained only on a careful study of all relevant circumstances.

...

24. In the instant case, it is an admitted position that the appellant was serving as a Medical Officer in the Primary Health Centre and the complainant was working as an Assistant Nurse in the same health centre and that she is a widow. It was alleged by her that the appellant informed her that he is a married man and that he has differences with his wife. Admittedly, they belong to different communities. It is also alleged that the accused/appellant needed a month's time to get their marriage registered. The complainant further states that she had fallen in love with the appellant and that she needed a companion as she was a widow. She has specifically stated that "as I was also a widow and I was also in need of a companion, I agreed to his proposal and since then we were having love affair and accordingly we started residing together. We used to reside sometimes at my home whereas sometimes at his home". Thus, they were living together, sometimes at her house and sometimes at the residence of the appellant. They were in a relationship with each other for quite some time and enjoyed each other's company. It is also clear that they had been living as such for quite some time together. When she came to know that the appellant had married some other woman, she lodged the complaint. It is not her case that the complainant has forcibly raped her. She had taken a conscious decision after active application of mind to the things that had happened. It is not a case of a passive submission in the face of any psychological pressure exerted and there was a tacit consent and the tacit consent given by her was not the result of a misconception created in her mind. We are of the view that, even if the allegations made in the complaint are taken at their face value and accepted in their entirety, they do not make out a case against the appellant. We are also of the view that since the complainant has failed to prima facie show the commission of

rape, the complaint registered under Section 376(2)(b) cannot be sustained.”

- b) The Hon’ble Supreme Court of India in the case of ***Uday versus State of Karnataka***, reported in **(2003) 4 SCC 46**, was inter alia, held as follows:-

“21. It therefore appears that the consensus of judicial opinion is in favour of the view that the consent given by the prosecutrix to sexual intercourse with a person with whom she is deeply in love on a promise that he would marry her on a later date, cannot be said to be given under a misconception of fact. A false promise is not a fact within the meaning of the Code. We are inclined to agree with this view, but we must add that there is no straitjacket formula for determining whether consent given by the prosecutrix to sexual intercourse is voluntary, or whether it is given under a misconception of fact. In the ultimate analysis, the tests laid down by the courts provide at best guidance to the judicial mind while considering a question of consent, but the court must, in each case, consider the evidence before it and the surrounding circumstances, before reaching a conclusion, because each case has its own peculiar facts which may have a bearing on the question whether the consent was voluntary, or was given under a misconception of fact. It must also weigh the evidence keeping in view the fact that the burden is on the prosecution to prove each and every ingredient of the offence, absence of consent being one of them.

...

23. Keeping in view the approach that the court must adopt in such cases, we shall now proceed to consider the evidence on record. In the instant case, the prosecutrix was a grown-up girl studying in a college. She was deeply in love with the appellant.

She was, however, aware of the fact that since they belonged to different castes, marriage was not possible. In any event the proposal for their marriage was bound to be seriously opposed by their family members. She admits having told so to the appellant when he proposed to her the first time. She had sufficient intelligence to understand the significance and moral quality of the act she was consenting to. That is why she kept it a secret as long as she could. Despite this, she did not resist the overtures of the appellant, and in fact succumbed to them. She thus freely exercised a choice between resistance and assent. She must have known the consequences of the act, particularly when she was conscious of the fact that their marriage may not take place at all on account of caste considerations. All these circumstances lead us to the conclusion that she freely, voluntarily and consciously consented to having sexual intercourse with the appellant, and her consent was not in consequence of any misconception of fact.”

c) The Hon’ble Supreme Court of India in the case of **Deepak Gulati versus State of Haryana**, reported in **(2013) 7 SCC 675**, held as follows:-

“2. *The facts and circumstances giving rise to this appeal are that: the appellant and Geeta, the prosecutrix, 19 years of age, student of 10+2 in Government Girls Senior Secondary School, Karnal, had known each other for some time. The appellant had been meeting her in front of her school in an attempt to develop intimate relations with her. On 10-5-1995 the appellant induced her to go with him to Kurukshetra to get married and she agreed. En route to Kurukshetra from Karnal, the appellant took her to Karna Lake (Karnal), and had sexual intercourse with her against her wishes, behind the bushes. Thereafter, the appellant took her to*

Kurukshetra, stayed with his relatives for 3-4 days and committed rape upon her.

3. *The prosecutrix was thrown out after 4 days by the appellant. She then went to one of the hostels in Kurukshetra University, and stayed there for a few days. The warden of the hostel became suspicious and thus, questioned the prosecutrix. The prosecutrix thus narrated the incident to the warden, who informed her father. Meanwhile, the prosecutrix left the hostel and went to a temple, where she once again met the appellant. Here, the appellant convinced her to accompany him to Ambala to get married. When they reached the bus-stand, they found her father present there along with the police. The appellant was apprehended. Baldev Raj Soni, father of the prosecutrix, had lodged a complaint on 16-5-1995 under Sections 365 and 366 IPC, which was later converted to one under Sections 365 and 376 IPC.*

...

17. *The undisputed facts of the case are as under:*

17.1. *The prosecutrix was 19 years of age at the time of the said incident.*

17.2. *She had inclination towards the appellant, and had willingly gone with him to Kurukshetra to get married.*

17.3. *The appellant had been giving her assurance of the fact that he would get married to her.*

17.4. *The physical relationship between the parties had clearly developed with the consent of the prosecutrix, as there was neither a case of any resistance, nor had she raised any complaint anywhere at any time despite the fact that she had been living with the appellant for several days, and had travelled with him from one place to another.*

17.5. *Even after leaving the hostel of Kurukshetra University, she agreed and proceeded to go with the appellant to Ambala, to get married to him there.*

...

26. *To conclude, the prosecutrix had left her home voluntarily, of her own free will to get married to the appellant. She was 19 years of age at the relevant time and was, hence, capable of understanding the complications and issues surrounding her marriage to the appellant. According to the version of events provided by her, the prosecuti had called the appellant on a number given to her by him, to ask him why he had not met her at the place that had been pre-decided by them. She also waited for him for a long time, and when he finally arrived she went with him to Karna Lake where they indulged in sexual intercourse. She did not raise any objection at this stage and made no complaints to anyone. Thereafter, she also went to Kurukshetra with the appellant, where she lived with his relatives. Here too, the prosecutrix voluntarily became intimate with the appellant. She then, for some reason, went to live in the hostel at Kurukshetra University illegally, and once again came into contact with the appellant at Birla Mandir. Thereafter, she even proceeded with the appellant to the old bus-stand in Kurukshetra, to leave for Ambala so that the two of them could get married in the court at Ambala. However, here they were apprehended by the police.”*

xiii. Merely because the allegation of Section 376 of the Indian Penal Code had been alleged and the Opposite Party No. 2 had lodged a belated FIR and subsequently recorded a statement under Section 164 of the Code of Criminal Procedure in a mala fide manner, the version of the Opposite

Party No. 2 does not require to be treated as gospel truth and on the following decisions of the Hon'ble Apex Court:-

- a. The Hon'ble Supreme Court of India in the case of **Vineet Kumar & Ors. versus State of Uttar Pradesh & Anr.**, reported in **(2017) 13 SCC 369**, held as follows:-

“31. The complainant alleges rape by the accused on 22-10-2015 at 7.30 p.m. at her house and alleges that on the same day she went to the police station but FIR was not registered. She states that after sending an application on 26-10-2015 to the SSP, she filed an application under Section 156(3) CrPC before the Magistrate. There is no medical report obtained by the complainant except medical report dated 20-11-2015. The 10 on 7-11-2015 when asked the complainant to get medical examination done, the complainant and her husband refused. The incident having taken place on 22-10-2015 at 7.30 p.m. nothing was done by the complainant and her husband till 26-10-2015 when she alleges that the application was sent to SSP.

...

35. It is true that in the statement under Section 164 CrPC, the complainant repeated her allegation. The complainant has also recorded her age in the statement as 47 years.

...

39. The fact is that no medical examination was got done on the date of incident or even on the next day or on 7-11-2015, when the IO asked the complainant and her husband to get done the medical examination. Subsequently it was done on 20-11-2015, which was wholly irrelevant. Apart from bald assertions made by the complainant that all the accused have raped her, there was nothing which could have led the courts to form an opinion that the present case is a fit case of prosecution which ought to be launched. We are conscious that the statement given by the prosecutrix/complainant

under Section 164 CrPC is not to be lightly brushed away but the statement was required to be considered along with antecedents, facts and circumstances as noted above.

...

41. *Inherent power given to the High Court under Section 482 CrPC is with the purpose and object of advancement of justice. In case solemn process of Court is sought to be abused by a person with some oblique motive, the Court has to thwart the attempt at the very threshold. The Court cannot permit a prosecution to go on if the case falls in one of the categories as illustratively enumerated by this Court in State of Haryana v. Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335: 1992 SCC (Cri) 426]. Judicial process is a solemn proceeding which cannot be allowed to be converted into an instrument of operation or harassment. When there are materials to indicate that a criminal proceeding is manifestly attended with mala fide and proceeding is maliciously instituted with an ulterior motive, the High Court will not hesitate in exercise of its jurisdiction under Section 482 CrPC to quash the proceeding under Category 7 as enumerated in State of Haryana v. Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335: 1992 SCC (Cri) 426], which is to the following effect: (SCC p. 379, para 102)*

"102. (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

Above Category 7 is clearly attracted in the facts of the present case. Although, the High Court has noted the judgment of State of Haryana v. Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335: 1992 SCC (Cri) 426], but did not advert to the relevant facts of the present case, materials on which final report was submitted by

the IO. We, thus, are fully satisfied that the present is a fit case where the High Court ought to have exercised its jurisdiction under Section 482 CrPC and quashed the criminal proceedings.”

b. The Hon'ble Supreme Court of India in the case of **Ahmad Ali Quraishi & Anr. versus State of Uttar Pradesh & Anr.**, reported **(2020) 13 SCC 435** in paragraph nos. 23 and 24, inter alia held as follows: -

“23. In the facts of present case, we are fully satisfied that present is a case where criminal proceedings have been initiated by the complainant with an ulterior motive due to private and personal grudge. The High Court although noticed the judgment of this Court in State of Haryana v. Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] in the impugned judgment but did not examine the facts of the case as to whether present is a case which falls in any of the category as enumerated in Bhajan Lal case [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426]. The present case clearly falls in Category (7) of Bhajan Lal case [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335: 1992 SCC (Cri) 426] and the High Court failed to exercise jurisdiction under Section 482 CrPC in quashing the criminal proceeding initiated by the complaint.

24. In view of the foregoing discussions, we are of the view that in permitting criminal proceedings against the appellant shall be permitting a criminal proceeding which has been maliciously instituted with ulterior motives, permitting such criminal proceeding to go on is nothing but the abuse of the process of the court which needs to be interfered by this Court.”

13. The Learned Advocate representing the State submitted as follows:-

- i. The victim in her statement recorded under section 164 of the Code of Criminal Procedure specifically stated that Dilip Singh introduced her with Surajit Mitra (the principal accused). Thereafter victim and said Surojit Mitra developed a “love relation” and taking the advantage of said relationship Surojit Mitra along with Dilip Singh and Parha Chowdhury took her to Mandarmani and Surajit on several occasions ravished her without her consent. Though Dilip Singh and Partha Chowdhury had been there at the place of occurrence they did not prevent or rescued the victim from such crime committed by Surajit. Partha Chowdhury, the cousin of said Surajit, was well aware of the aforesaid fact that victim and his cousin developed an intimate relationship and such relationship soon be converted to marriage. After the incident of forceful physical abuse committed by Surajit, he neglected the victim. The victim had approached Surajit several times to consider her situation and marry to her but faced rejection.
- ii. The victim after the incident tried at her best to reconcile the situation but accused persons never paid any heed to her request and which was the the reason for delay in lodging the present case.
- iii. The victim had been introduced to Surajit in the month of January, 2009 within the jurisdiction of Maniktala Police Station. Surajit to achieve his ill motive pretended as good friend of the victim and slowly he convinced the victim to go with him to Tarapith for giving worship. But the victim was taken to Mandarmani by the accused persons and she was ravished by Surajit. Thus the commencement of the offence had been within the

Jurisdiction of Maniktala Police Station and such crime reached at its finality at Mandamani. So the question of jurisdiction not at all arrive in this case as the Maniktala Police Station correctly conducted the investigation and Charge sheet had been filed.

- iv. The victim made several complaint before the Officer-in-charge of Maniktala Police station subsequent to the alleged incident. In her complaint she specifically stated that the accused persons not only approached her money to withdraw the present case but also threatened her with dire consequences on several time.
 - v. Kindly consider the statements of hotel staff at page 115 and 116 of the case diary.
 - vi. The accused persons till date never be taken into custody in this respect kindly consider a prayer was made by the officer-in-charge of Maniktala Police Station to Learned Assistant Public prosecutor , High Court Calcutta and the investigation was still pending of the present case.
14. The present revisional applications call into question the continuance of criminal proceedings arising out of G.R. Case No.2542 of 2009, pending before the Learned Additional Chief Judicial Magistrate, Sealdah, South 24-Parganas, emanating from Manicktala Police Station Case No.378/09 dated 31st July, 2009, registered under Sections 120B/420/376 of the Indian Penal Code, together with the orders passed in aid thereof, including the order dated 21st November, 2009.
15. The petitioners, who describe themselves as persons engaged in the business of tours and travels under the name and style of “Mitra Travels”, contend that their

implication in the aforesaid proceeding does not arise from any discernible act attributable to them, but has occurred as a collateral extension of allegations primarily directed against one Surajit Mitra.

16. The written complaint lodged by the opposite party no.2 indicated that she had known petitioner no.2 for a considerable period, stated to be nearly a decade. Acting upon such acquaintance, she approached petitioner no.1 with the intention of engaging herself in a car business. In this context she was introduced to the said Surajit Mitra, described as the proprietor of "Mitra Travels". It further appeared from the complaint that she subsequently came to learn that petitioner no.2 was related to the said Surajit Mitra.
17. The narrative proceeded to state, within a short time, a relationship of proximity developed between the complainant and Surajit Mitra, who was alleged to have represented himself as an unmarried person. During the month of July, 2009, he was said to have approached the complainant with a proposal of marriage, which she readily accepted in reliance upon such representation.
18. The allegation then turned to the events of 25th July, 2009. On that date, the petitioners, along with the said Surajit Mitra, requested the complainant to accompany them on a journey to Tarapith. The complainant asserted she agreed to such proposal in good faith and travelled with them on the same day. After some time, she realised that they were not proceeding towards Tarapith but to another destination, and ultimately reached Mandarmani, where they checked into a hotel identified as "Mainak Hotel".
19. It was further alleged that, on the evening of the same day, Surajit Mitra entered the room of the complainant and stayed with her, and during the night

established physical relations with her on more than one occasion, accompanied by assurances that he would shortly marry her. The complaint recorded that on 27th July, 2009, when she attempted to contact him, he responded with abusive language and declined to acknowledge any such relationship, whereupon she learnt that he was already married.

20. Although the complainant returned to Kolkata on 26th July, 2009, the complaint was lodged only on 31st July, 2009. No explanation, much less a satisfactory one, was discernible from the materials as to the delay in setting the criminal law in motion.
21. It was further brought on record that the petitioners, apprehending arrest, approached the Learned Sessions Judge at Alipore by filing an application for anticipatory bail, which was rejected by order dated 10th May, 2010.
22. Prior thereto, on 2nd September, 2009, the Investigating Agency had sought transfer of the case to Ramnagar Police Station on the question of territorial jurisdiction. The Learned Magistrate, by order of the same date, fixed 21st November, 2009 for consideration of such issue. Ultimately, by order dated 21st November, 2009, the prayer for transfer was declined and continuation of investigation by Manicktala Police Station was directed.
23. The petitioners contended the allegations disclosed no specific role attributable to them in the commission of the alleged offences. The narrative, even if accepted at its face value, attributed the entirety of the alleged misconduct to Surajit Mitra. The petitioners were, at best, shown to have facilitated an introduction, which, by itself, did not satisfy the requirements of criminal liability under the provisions invoked.

24. It was further submitted the allegations did not satisfy the essential ingredients of the offences alleged. There was no material to indicate that the petitioners made any representation, much less a dishonest one, nor was there any indication of a prior meeting of minds so as to constitute a criminal conspiracy.
25. The petitioners also invited attention to certain inconsistencies within the complaint. While it was asserted the complainant had known petitioner no.2 for nearly ten years, the narrative simultaneously suggested a lack of familiarity with basic particulars, introducing an element of incongruity which, according to the petitioners, bore upon the credibility of the allegations.
26. Considerable emphasis was placed upon the delay in lodging the complaint. It was submitted that the absence of any explanation for such delay rendered the prosecution version susceptible to embellishment.
27. A further submission was advanced on the question of territorial jurisdiction. It was contended the entire occurrence, as described in the complaint, took place at Mandarmani in the district of Purba Medinipur. No part of the cause of action was shown to have arisen within the jurisdiction of Manicktala Police Station or the Court at Sealdah. In such circumstances, the initiation and continuation of proceedings at the said forum was asserted to be without jurisdiction.
28. The order dated 21st November, 2009 was also assailed on the ground that it did not reflect a reasoned consideration of the issue of jurisdiction and appeared to have been rendered without adequate engagement with the materials placed.
29. The petitioners further submitted the allegations were not *bona fide* and had been brought forth with an oblique purpose, resulting in an unwarranted invocation of the criminal process.

30. On the cumulative strength of the aforesaid submissions, it was contended the continuation of the impugned proceedings, insofar as the present petitioners were concerned, would amount to an abuse of the process of Court. It was thus urged that this Court might exercise its inherent jurisdiction under Section 482 of the Code of Criminal Procedure to interdict the proceedings and secure the ends of justice.
31. The petitioners thus presented a case where the allegations, when carefully examined, did not appear to traverse the threshold required to sustain criminal prosecution against them. The absence of specific attribution, the questions surrounding jurisdiction, and the delay in initiating proceedings were pressed into service to contend that the continuation of the proceeding would not advance the cause of justice but would, instead, result in its abuse of process of law.
32. The present revisional challenge, when examined in its proper perspective, necessitated a careful delineation of the limits of judicial intervention at the threshold of criminal proceedings, particularly within the framework of Section 482 of the Code of Criminal Procedure. The jurisdiction invoked is undoubtedly wide in its textual amplitude; yet, its exercise is conditioned by restraint, discipline, and fidelity to the structure of criminal adjudication.
33. At the very outset, it must be recognised that the High Court, while exercising jurisdiction under Section 482 of the Code of Criminal Procedure, does not assume the role of a Court of Trial. The distinction is neither semantic nor procedural; it is foundational. A Trial Court proceeds upon evidence, subjected to the rigours of cross-examination and tested against the standards of proof.

The High Court, at this preliminary stage, proceeds only upon the unembellished allegations as they stand, without embarking upon an enquiry into their ultimate veracity.

34. In the present case, the petitioners had advanced a series of submissions which, though presented with a degree of persuasion, palpably traversed into the realm of factual adjudication. It had been urged that the petitioners were merely engaged in the business of tours and travels; that their role, if any, was confined to facilitate an introduction between the complainant and the principal accused, namely Surajit Mitra; that no overt act could be attributable to them in relation to the alleged offence; and that their implication was an afterthought, motivated by extraneous considerations.
35. These submissions, however, had been anchored in a defence narrative, the acceptance of which would require this Court to undertake an exercise of weighing probabilities, assessing credibility, and drawing factual inferences all of which were covered by the domain of Trial Court.
36. The complaint indicated the petitioners were not strangers to the sequence of events. The complainant asserted a prior acquaintance with petitioner no.2 extending over a considerable period; it was upon such acquaintance that she approached petitioner no.1, leading to her introduction to Surajit Mitra. The subsequent journey on 25th July, 2009, was alleged to have been undertaken not by the principal accused alone, but in the company of the present petitioners. The deviation from the stated destination, the eventual arrival at Mandarmani and the circumstances in which the complainant was accommodated in a hotel were all events in which the petitioners were present.

37. Whether such presence was innocuous, incidental, or indicative of a shared understanding was a matter that could not be determined in abstraction. It required evidence oral and documentary tested through the crucible of trial. To accept, at this stage, the petitioners' contention that they played no role beyond a benign introduction would be to substitute a defence hypothesis in place of the prosecution narrative, a course impermissible in proceedings of this nature.
38. Considerable emphasis had been placed upon the delay in lodging the complaint. The occurrence took place on 25th July, 2009; the complainant returned to Kolkata on 26th July, 2009; and yet, the complaint was lodged on 31st July, 2009.
39. While the interval was not insignificant, the question whether such delay was fatal, or whether it stood reasonably explained by attendant circumstances, had been a matter that could not be conclusively determined without affording the prosecution an opportunity to explain such delay. Delay, in the context of offences involving personal dignity, did not lend itself to a rigid or mechanical application of timelines. It must be appreciated in the backdrop of surrounding circumstances, including the psychological and social dimensions that often accompanied such allegations.
40. Similarly, the alleged inconsistencies whether relating to the extent of prior acquaintance, or the sequence of events were matters that bore upon credibility, and not upon the existence of an offence. The law did not require that a complaint be a model of precision; it sufficed if the allegations, taken at their face value, disclosed the commission of an offence. The refinement of

inconsistencies and the testing of narrative coherence was the function of trial, not of a petition under Section 482 of the Code of Criminal Procedure.

41. The submission that the entire occurrence took place at Mandarmani and therefore outside the jurisdiction of Manicktala Police Station, did not, at this stage, furnish a ground for quashing. The complaint disclosed the parties were acquainted in Kolkata; that the journey commenced from within the jurisdiction; and that subsequent events, including communication and consequences, also bore a nexus to such jurisdiction.
42. The question whether these elements were sufficient to confer jurisdiction was not a matter to be determined in a proceeding under Section 482 of the Code of Criminal Procedure. It was a mixed question of fact and law, which might require evidence to ascertain where the cause of action, in part or in whole, arose.
43. In the case of ***State of Haryana and Others v. Bhajan Lal and Others***¹ the Hon'ble Supreme Court observed as follows :

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and

¹ 1992 SCC(Cri) 426

to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, 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.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non- cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) 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.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an

ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

44. When the allegations in the present case were examined on their own terms, it could not be said that they were so inherently improbable or absurd as to defy acceptance nor could it be stated that the complaint failed to disclose the ingredients of a cognizable offence. The assertion that the complainant was induced to accompany the accused persons, taken to a different destination, and subjected to exploitation under a representation which later proved to be false, constituted a narrative that required evidentiary scrutiny, not summary dismissal.
45. The role attributed to the petitioners, though not elaborately articulated, was not altogether absent. The law did not require, at the stage of cognizance, a meticulous dissection of individual roles; it sufficed if the allegations disclosed participation in a chain of events which, if established, might attract penal consequences.
46. It must be emphasised that the High Court, while exercising revisional or inherent jurisdiction, does not function as an Appellate Authority over the factual matrix. The jurisdiction is corrective, not substitutive; it is invoked to prevent palpable injustice, not to pre-empt a trial.
47. To interdict proceedings at this stage, on the basis of a defence that remains to be established, would be to truncate the prosecutorial process at its inception, thereby foreclosing the opportunity of the prosecution to establish its case in accordance with law.

48. The complaint disclosed the complainant had known petitioner no.2 for a considerable period, extending to nearly ten years prior to the incident. Acting upon such acquaintance, she approached petitioner no. 1 in connection with a proposed engagement in a car business. It was in that context that she was introduced to one Surajit Mitra, stated to be associated with “Mitra Travels”.
49. The narrative then proceeded to indicate that during the month of July, 2009, Surajit Mitra represented himself as an unmarried person and expressed his intention to marry the complainant. Acting upon such representation, the complainant was reposed confidence in him.
50. On 25th July, 2009, the complainant was alleged to have accompanied the accused persons, including the present petitioners, on a journey which was represented to be to Tarapith. The complaint indicated such representation did not materialise in its stated form, and that the complainant ultimately reached Mandarmani, where she was accommodated in a hotel described as “Mainak Hotel”.
51. The events of the intervening night were attributed to the principal accused. However, the complaint situated these events within a larger continuum, in which the presence and participation of the present petitioners form part of the surrounding circumstances.
52. The complainant returned to Kolkata on 26th July, 2009. The complaint was lodged on 31st July, 2009, giving rise to Manicktala Police Station Case No.378/09.
53. The complaint did not describe the petitioners as remote or disconnected actors. Their presence was asserted at the stage when the complainant agreed to

undertake the journey on 25th July, 2009. They were part of the group accompanying her, and thus form part of the chain of circumstances leading to the occurrence.

54. At this stage, it was not the function of the Court to isolate each segment of the narrative and determine whether the role attributed to the petitioners was sufficient to sustain conviction. The enquiry was confined to whether their presence, as alleged, was such as to require examination upon evidence. The materials did not permit the conclusion that their implication was so inherently improbable as to warrant exclusion at the inception.

55. The contention that the petitioners merely facilitated an introduction and had no further involvement constituted a defence that required substantiation. Its acceptance would depend upon evidence relating to their knowledge, conduct, and the surrounding circumstances.

56. Such matters could not be adjudicated without affording the prosecution an opportunity to establish its case and the defence an opportunity to contest it through cross-examination. To accept the defence at this stage would be to displace the evidentiary process.

57. The function of the Court was confined to ensure that the process of law was not misused. It was not to truncate a prosecution that required evidentiary adjudication. When the facts were considered in their entirety, along with the governing legal principles, it appeared:-

- i. the complaint disclosed a cognizable offence;

- ii. the role of the petitioners, though contested, was not absent from the narrative;
- iii. the issues raised by the petitioners required adjudication upon evidence; and
- iv. the case did not fall within the limited categories warranting interference at the threshold.

56. The revisional application is, accordingly, dismissed. It is clarified that the observations made herein are confined to the present stage and shall not influence the trial. The learned trial court shall proceed independently and in accordance.

57. In view of the above discussions, both the criminal revisional applications being CRR 2092 of 2010 with CRR 3258 of 2010 are dismissed.

58. Case Diary, if any, to be returned.

59. There is no order as to cost.

58. Let the copy of this judgment be sent down to the Learned Trial Court and the concerned police station as well for necessary action.

59. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Ananya Bandyopadhyay, J.)