

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

PRESENT:

THE HON'BLE DR. JUSTICE AJOY KUMAR MUKHERJEE

CRR 2390 of 2019

**Dr. Soham Saha
Vs.
The State of West Bengal & Anr.**

For the petitioner : Mr. Sekhar Kumar Basu, Sr. Adv.
Mr. Diptangshu Basu,
Ms. Suchismita Dutta

For the opposite party No.2 : Mr. Arindam Sen
Mr. S. Basu,
Mr. S. Biswas
Ms. Payel Maji

For the State : Ms. Sreyashee Biswas
Ms. Puja Goswami

Heard on : 28.04.2026

Judgment on : 16.06.2026

Dr. Ajoy Kumar Mukherjee, J.

1. In the instant application the petitioner Dr. Soham Saha has prayed for quashment of the proceeding being Naihati P.S. Case no. 383/2019 dated 17.07.2019 under section 341/323/325/354B/379/34 of the Indian

Penal Code which was lodged by Opposite Party (in short OP) no. 2 herein against the petitioner herein and four others.

2. The allegations levelled in FIR are *interalia* to the effect that on 15.07.2019 when the OP no. 2 was on duty at about 2.pm, a Dengue Team from the Chief Medical Officer of health (in short CMOH) came to visit Naihati Hospital at around 2PM. It is alleged that at that time, the petitioner herein being a member of the team started misbehaving with the opposite party no.2, concerning some pathological issues and when the opposite party no.2 raised protest against the same the petitioners started abusing her with most filthy languages and even slapped her. In order to defend herself, the OP no.2 restrained the petitioner with her hands. Thereafter the OP no.2 was called over phone by the nursing superintendent and was asked to come to the emergency doctors room at Naihati Hospital. When the complainant went to the said doctors room, the door of that room was kept locked and the petitioner herein at the first instance kicked the Opposite party no.2 in her belly and subsequently he pulled her top and even toured the garments of the OP no.2 and had touched her private parts. All the accused persons have jointly assaulted the op no.2 by holding her hair. Her mobile phone was also snatched by the superintendent and even she was threatened to dismiss from the service. After completion of investigation charge sheet was submitted on 30.09.2022 and the court had taken cognizance upon offences mentioned above on 12.05.2023.

3. Being aggrieved by the aforesaid proceeding learned counsel for the petitioner submits that at the time of his official visit to Naihati Hospital as a member of the Dengue Observer Team, he was subjected to severe

harassment and physical assault by the Op no.2 herein. Further case of the petitioner is that the op no. 2 not only abused him with filthy languages but also pushed his shoulder and even kicked on his abdomen in the ward area. His further contention is that only fault committed by the team was that she was asked by them to perform dengue line listing in the ward. At that time the OP no.2 threatened to register false cases against the team members.

4. It has been further submitted by the petitioner that he on the very next day had registered a written complaint against the OP no.2 herein before the CMOH at 11 a.m. which was also addressed to the officer-in-charge, Naihati Police Station. The petitioner had also written a letter to the inquiry officer narrating the entire incident with a request to take appropriate action against the OP no.2. The petitioner had appeared before the enquiry committee but the OP no.2 herein did not turn up before the inquiry committee as and when she was called upon. Petitioners further contention is that on 08.08.2019 he further ventilated his grievances before the Director of Health Services, North 24 Parganas and the Deputy Director of Health Services, PHE Government of West Bengal as well as District Magistrate, North 24 Parganas. In the meantime the OP no.2 had lodged the instant complaint against the petitioner and others with some baseless allegations.

5. Petitioners further contention is that the allegations levelled in the FIR are more of a figment of imagination of the OP no.2 rather than based on any factual foundation. She has made an attempt to malign the present petitioner and demean him in the society and hamper his career for reasons best known to her. He further submits that from the CCTV Footage it is

apparent that the alleged offences under section 341/323 / 325/355B/379 have not been made out. However after making perfunctory investigation police has submitted charge sheet against the present petitioner which is not in accordance with law and therefore liable to be quashed.

6. Admittedly three cross cases have arisen over self- same incident dated 15.07.2019 which allegedly occurred at Naihati State General Hospital

(i) The instant proceeding being Naihati P.S. case no. 383 of 2019 dated 19.7.2019, corresponding to GR Case no. 3875 of 2019, in which the complainant is the OP no.2 herein and one of the accused is the petitioner herein.

(ii) Naihati Police Case no. 384/2019 dated 17.07.2019 under sections 341/323 IPC corresponding to GR Case no. 3876/2019 in which the complainant is the petitioner herein and the accused is the Opposite party no.2 herein

(iii) Naihati police Station Case no. 388/2019 dated 18.7.2019 in which the complainant is the Superintendent of the Naihati State General Hospital and the accused is the opposite party no.2 herein

7. The gist of written complaint lodged at Naihati P.S. Case no. 383 of 2019 i.e. the instant proceeding has already been stated above. The relevant portion of FIR lodged by the petitioner herein against Opposite party no.2 herein in connection with Naihati Police Case No. 384 of 2019, is as follows:-

"I, Dr. Soham Saha, Medical officer at Barsat District Hospital and attached to public Health Wing of the office of the Chief Medical Officer of Health (CMOH) N24 PGs, would like to lodge an FIR against Jhuma Debnath (staff Nurse, Naihati SGH) on the allegation of kicking in my

abdomen and hitting in my R+ shoulder area while I was conducting my duty as a member of supervisory team to look after Dengue related preventive, curative and allied activities as per standard state operative protocol and CMOH order. The entire incidence was documented in CCTV Camera in the ward in front of patients & their relatives. The order copy is attached also.

I will be highly obliged if you urgently treat this matter as physical assault on on-duty doctor and take necessary actions against Jhuma Debnath.”

8. As stated above superintendent of Naihati State General Hospital has also initiated a criminal proceeding being aforesaid Naihati Police Station Case no. 388 of 2019 and the relevant portion of the written complaint is as follows:-

“This is to inform you that on 15-07-2019 around 2.00p.m. I received a phone call from Nursing Superintendent of this hospital that nursing staff Jhuma Debnath in MS ward is creating chaos and assaulting a doctor named Dr. Soham Saha who is the team member of Dengue observer Team. The visit of hospital by Dengue observer Team is a routine job scheduled by the higher authority and our co-operation in this regard is mandatory in the interest of public service.

Nursing Superintendent also told me to come urgently to MS ward. After that when I was going to that site accompanied with other staff of my office (smt. Swati Raha Head clerk, Sri Tarun Banerjee UD, Sri Tapas Ghosh faculty Manager actg, and Sri Tapan Kumar Sahoo GDA), I met with the Dengue observer team in front of Doctors room I saw the Doctor Shoham Saha was crying and trembling. I went to Doctors’ Room and called nursing Superintendent Facility Manager, ward sisters, observer team and nursing staff Jhuma Debnath also. At that time two police personnel of Naihati PS were present in that room.

When Jhuma Debnath came to Doctors’ room we tried to understand her about the importance of Dengue visit and also

importance of our cooperation with the observer team, but she was so aggressive and violent that she did not hear anything and not to hear anybody for anything.

Secondly, we cordially wanted to solve the problem which had happened in MS ward in departmentally within the hospital, but that Jhuma Debnat was so aggressive that she failed to hear anything. Suddenly she became so violent and hit my right eye and as a result my specs fall down. I felt so pain in my right eye.”

9. During the course of hearing, I am informed that in connection with the Naihati P.S. case no. 384 of 2019, initiated by the present petitioner, trial has started and some of the witnesses including the petitioner have been examined. So far as the instant proceeding being Naihati P.S. Case no. 383 of 2019 is concerned charge sheet has been submitted and cognizance has also been taken by the concerned court. The status of the other case being Naihati P.S. case no., 388 of 2019 is not before this court. However, facts remains that in view of settled position of law since all the three criminal proceedings have arisen out of the same incident dated 15.7.2019, all these proceedings should be tried together by the same court irrespective of the nature of offence involved. The rational behind this is to avoid the conflicting judgments over the same incident because if the cross cases are allowed to be tried by two or three separate courts there is likelihood of conflicting judgements over the self same incident.

10. The apex court in **Nathi Lal Vs. State of U.P.** reported in **1990 (sup) SCC 145** pointed out the procedure to be followed by the trial Court in the event of cross cases.

“2. We think that the fair procedure to adopt in a matter like the present where there are cross cases, is to direct that the same learned Judge must try both the cross cases one after the other. After the recording of evidence in one case is completed, he must hear the arguments but he must reserve the judgment. Thereafter he must proceed to hear the cross case and after recording all the evidence he must hear the arguments but reserve the judgment in that case. The same learned Judge must thereafter dispose of the matters by two separate judgments. In deciding each of the cases, he can rely only on the evidence recorded in that particular case. The evidence recorded in the cross case cannot be looked into. Nor can the judge be influenced by whatever is argued in the cross case. Each case must be decided on the basis of the evidence which has been placed on record in that particular case without being influenced in any manner by the evidence or arguments urged in the cross case. But both the judgments must be pronounced by the same learned Judge one after the other.”

11. Having considered the facts and circumstances, of the aforesaid three cases and also considering the facts that after completion of investigation the court has taken cognizance in respect of the instant case I find that this is a fit case where similar direction is required to be passed for the ends of justice i.e. all the three cross cases would be tried by the same court, irrespective of the nature of the offence involved. Learned District and Sessions judge, North 24 Parganas is hereby directed to transmit the case records of Nahati P.S. case no. 383/2019 corresponding the GR case no. 3875 of 2019 dated 17.7.2019 and Naihati P.S. Case no. 384 of 2019 dated 17.07.2019 corresponding to GR Case no. 3876 of 2019 and Naihati P.S. Case no. 388 of 2019 dated 18.07.2019 before the same court having jurisdiction to try all these three cases within a period of six weeks from the date of this order, if all the three cases are not pending before same court. Concerned court before whom the record of all the three cases would be transmitted or existed shall proceed separately one after another, which includes charge hearing and recording of evidence, if required and he will also hear arguments separately if required but shall reserve the judgement

till the hearing of arguments in other cases (if any) be not completed. The same learned Judge thereafter shall dispose of the cases by separate judgements and in deciding each of the cases he can rely only on the evidence recorded in that particular case and he will not look into the evidence recorded in the cross case(s) nor he shall be influenced by whatever is argued in the cross case(s) and each case must be decided on the basis of the evidence which has been placed on the record in that particular case without being influenced in any manner by the evidence or argument urged in the cross case(s). Nevertheless he will deliver judgements in all the cases one after the other, following the guidelines laid down in the case of **Nathi Lal and Ors.** (supra).

12. CRR 2390 of 2019 is accordingly disposed of
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.)