

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

Present:-

THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)

CRR NO.3240 of 2022

**DR. CHINMAY HALDER & ANR.
VS.
THE STATE OF WEST BENGAL & ANR.**

For the Petitioners : Mr. Indrajit Roy Chowdhury, Adv.
Mr. Sujan Ray, Adv.,
Ms. Trenesha Chandra, Adv.

For the State : Mr. Joydeep Roy, learned Jr. Govt. Adv.,
Mr. Amanul Islam, Adv.

Last heard on : 19-01-2026.

Judgement on : 19-01-2026.

Uploaded on : 21-01-2026.

CHAITALI CHATTERJEE (DAS), J. :-

- 1.** This is an application under Section 482 of the Code of Criminal Procedure filed by the petitioners for quashing of the proceeding GR Case No.1332 of 2022 arising out of Ramnagar Police Station Case No.71 of 2022 dated 03-05-2022 under Sections 188/34 of the Indian Penal Code.
- 2.** The fact of the case in a nutshell is that a complaint was lodged by the opposite party no.2 herein before the Inspector-in-Charge of Ramnagar Police Station, alleging violation of an order of injunction granted by a civil court. On the basis of the

complaint, Ramnagar Police Station Case No.71 of 2022 dated 03-05-2022 started under Sections 188/34 of the Indian Penal Code. On completion of investigation, charge sheet has been submitted on May 16, 2022 under Sections 188/34 of the Indian Penal Code. The present petitioner has come up for quashing of the same.

3. Learned advocate appearing for the petitioners submits that by a registered deed of sale executed on September 09, 1992, one Sibani Koyal purchased 47 sataks of Sali land in R.S. and L.R. Dag No.551 of Khatian No.672 from one Manjuri Samanta. Subsequently, by two registered sale deeds dated March 12, 2018, the present petitioner purchased 41 sataks of land from Sibani Koyal. After that, the petitioner was granted permission to convert the nature and character of the land from Sali to Bastu. Accordingly, the land was converted to Bastu.

4. On January 20, 2020, the present petitioner filed a suit for pre-emption against the opposite party no.2 alleging that the present opposite party no.2 conjointly with the defendants in the suit transferred portion of their plots of the R.S. and L.R. Dag Nos.550 and 551 of Khatian Nos.672 and 673 in favour of the defendant no.1 in the suit by registered sale deed frustrating the right of pre-emption of the petitioners. The present opposite party no.2 also lodged a complaint alleging that the petitioner no.1 is making brick works on Dag Nos.550 and 551 in respect of which Misc. Pre-emption Case No.01 of 2020 is pending and prayed for an order restraining him from doing any such work of construction. The Misc. Pre-emption Case No.1 of 2020 filed by the petitioners against the complainant and two others are pending at the stage of evidence before the court of learned Civil Judge, Junior Division, Diamond Harbour.

5. It is submitted that in connection with the said suit, an interim order is in force under Order 39 Rule 1 of the Code of Civil Procedure along with an order of status quo. The complaint lodged by the opposite party no.2 is absolutely false and fabricated and by suppressing the order of the civil court. Learned advocate for the petitioners, accordingly, prays for quashing of the proceeding arising out of the said G.R. case.
6. Learned prosecution raises primary objection. However, he submits that there is an order of injunction and instead of taking appropriate course, this complaint has been lodged.
7. Heard the submissions of the learned advocates for the parties. On careful perusal of the materials on record and the nature of complaint lodged, it is clear that there is a dispute over the possession of the land. The civil suits are pending over the same. An order of injunction was passed directing the parties to maintain status quo. The written complaint also manifest that there was an order of injunction and allegation was levelled against violation of such order of injunction. The Misc. Case has been filed by the opposite party no.2 for alleging violation of the order of injunction. On the basis of such nature of complaint, the instant complaint has been lodged under Sections 188/34 of the Indian Penal Code.
8. Section 188 of the Indian Penal Code runs thus:

“188. Disobedience to order duly promulgated by public servant.- Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction,

shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both:

and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation.-It is necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.”

9. Therefore, the essential ingredients necessary to attract this provision is that the offender should intend to cause harm or contemplate his disobedience as likely to cause harm. That apart, there must be an order promulgated by a public servant lawfully empowered to promulgate such order, and whereby he is directed to abstain from certain act. The order of injunction was in the nature of status quo to be maintained. Therefore, it is necessary for the concerned court granting injunction to assess whether there is any violation of such judicial order passed by the learned civil court or not which can only be decided by the learned civil court while dealing with the application filed under Order 39 Rule 2A of the Code of Civil Procedure.

10. The mandate of the Hon’ble Supreme Court is that the power under section 482 CrPC is very wide but the conferment of wide powers require the court to be more cautious however at the same time if the court thinks fit regard to the parameters of quashing and the self restraint imposed by law the court can quash the proceeding.

- 11.** The complaint discloses the dispute is civil in and hence should not be cloaked with criminal intent. Therefore, this court is of the view that if the proceeding is allowed to be continued it would amount to gross abuse of the process of law. Hence, the complaint should be quashed.
- 12.** Accordingly, the instant revisional application succeeds. The proceeding pending in of G.R. Case No.1332 of 2022 arising out of Ramnagar Police Station Case No.71 of 2022 dated May 03, 2022 under Sections 188/34 of the Indian Penal Code is hereby quashed.
- 13.** The revisional application stands disposed of.
- 14.** All parties shall act on the server copies of this judgment duly downloaded from the official *website* of this Court.
- 15.** Urgent Photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

[CHAITALI CHATTERJEE (DAS), J.]