

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

Present:-

HON'BLE JUSTICE CHAITALI CHATTERJEE DAS.

CRR 3775 OF 2022

PRABIR MUKHOPADHYAY @ PRABIR MUKHERJEE

VS

THE STATE OF WEST BENGAL & ANR.

For the Petitioner : Mr. Manjit Singh, Adv.
Mr. Biswajit Mal, Adv.
Mr. Arkaprabho Roy, Adv.

For the State : Mr. Madhusudan Sur, Ld. APP.
Mr. Md. Anwar Hossain, Adv.
Mr. Dipankar Pramanick, Adv.

For the Opposite

Party No. 2 : Mr. Tapas Mukhopadhyay, Adv.

Last heard on : 03.02.2026

Judgement on : 05.02.2026

Uploaded on : 05.02.2026

1. The petition has been filed for quashing of the charge-sheet being charge sheet no. 182 of 2020 dated September 30 2020, Section 448/354/509/506 of the Indian Penal Code, 1860.

2. The allegations levelled against the petitioners are that on November 8, 2016 in the afternoon, the petitioner along with three other officials of WBFC entered forcefully into her residence and started abusing and threatening her stating that her husband has committed fraud and is a cheat. She was further pushed by them and they spoke in such a loud and aggressive manner that complainant's minor daughter became sick. The officer did not examine the relevant witnesses and examine only one Subhamoy Banerjee who is a business associate of the husband of the complainant. The Investigating Officer has ignored the vital aspect that it is an attempt to install the loan recovery proceeding by the complainant's husband and filed the charge-sheet in mechanical manner after 4 years from the date of complaint. Hence filed this revision application.

3. The learned Senior Advocate appearing on behalf of the petitioner would submit that the petitioner is a senior citizen being a retired officer on special duty and ex-officio G.M (Administrative, and Training Department) of the West Bengal Financial Corporation (WBFC). On November 11, 2016, the petitioner with three other Senior Officials visited the house of the husband of the Opposite Party no. 2 and on November 11 2016 she lodged a complaint against the present petitioner and others falsely implicating them out of grudge as a loan recovery proceeding was initiated. After the charge-sheet was filed on September 30, 2020 upon a perfunctory investigation on November 9, 2020 the General Manager(O.M.) had sent a reply to the investigating officer and seeing all the relevant documents and informing him that the FIR was nothing but effort on the part of the husband to stall the loan recovery proceedings. After four years from the date of filing of the

charge-sheet, it was received in the Court of learned CJM Howrah on November 21 2020.

- 4.** It is the contention of the learned Senior Advocate that the charge-sheet reflects that it was received by the Court inspector, Howrah on September 25, 2021 so the question arises why it was not placed before the learned Chief Judicial Magistrate, Howrah on the same date for taking cognizance. It was placed before the learned CJM only after the petitioner surrendered for bail on October 4, 2021. There is no explanation as to why the statements under Section 161 Cr.P.C of the same set of people had to be recorded twice by the Investigating Officers that is on November 11, 2016 and July 10, 2020. There is no explanation as to why the IO after sending the letter dated September 25, 2020 to the General Manager of WBFC did not wait for his reply and prepared the charge-sheet within five days on November 30, 2020. Why the I.O. did not carry any further investigation after he got the reply from the General Manager which was sent to him on November 9, 2020.
- 5.** It is further argued that the statements of the three officials who had accompanied the petitioner to the Opposite Party's house were not recorded when in the reply of the General Manager dated September 11, 2020 the names were given to the I.O. that apart those persons were named as accused persons in the FIR, but they were not named in the charge-sheet. It is further submitted that all the three witnesses are interested witnesses including the husband of the de-facto complainant who took loan from WBFC. The three witnesses are the Directors of the company of the husband of the Opposite Party no. 2. The FIR failed to disclose any ingredients of the

Office either on that Section 354B or under Section 448 of the Indian Penal Code regarding the offence under Section 506/509 of the Indian Penal Code.

6. This is learned Senior Advocate relied upon the decisions reported in ***Naresh Aneja versus state of Uttar Pradesh and another*¹, *Chanchal Pati Das versus State of West Bengal and Another*², *Sharif Ahmed versus State of Uttar Pradesh and Another*³, *Pradeep Kumar Kesarwani versus State of UP*⁴, *Salib @ Shalu @ Salim versus State of UP*⁵, *Mohammed Ali versus State of UP and others*⁶, *Imran Ahmed Ansari versus the state of West Bengal*⁷, *Hari Kishan Sharma versus State and Another*⁸.**

7. The learned Advocate appearing on behalf of the Opposite Party no. 2, on the other hand, submitted that taking advantage of their position, the petitioners committed the offence as abused the de-facto complainant and also applied force to push her. The complaint was lodged within a reasonable time and on completion of investigation, the I.O. submitted the charge-sheet, which prima facie proves the material exists to attract the ingredients of the offences committed by the present petitioner the veracity of the same can be tested only at the time of trial. That apart, the charge has not yet been framed by the court and hence the petitioner can place the entire material before the concerned court under relevant provision which can be decided by the learned Court considering the available material.

¹ (2025) 2 SCC 604

² (2023) 20 SC 120

³ (2024) 14 SCC 122

⁴ 2025 SCC online SC 1947

⁵ 2023 SCC online SC 947

⁶ (2023) 15 SCC 488

⁷ CRR no. 997 of 2020

⁸ 2018 SCC online Delhi 11456

- 8.** The scope of exercising power under Section 482 has to be used in rarest of rare only when the complaint itself would not constitute an offence primarily and also, and if it is found that to continue, the proceeding would be gross abuse of the process of law. None of the above can be observed in view of the allegations levelled against the present petitioner.
- 9.** The learned prosecution for the submits that there was delay in placing the charge-sheet possibly due to Covid-19 pandemic and the de-facto complainant alleged about an incidence which has been proved on the basis of the statement recorded by the witnesses and the veracity must be tested during trial. However admitted the inordinate delay in completion of the investigation.
- 10.** Heard the submissions. In order to set the police in motion, the Opposite Party no.2 lodged a complaint before Officer-in-Charge Bantra Police Station against the petitioner along with the three officers of WBFC Howrah alleging inter alia of trespassing into her house on November 8, 2016 at about 2:30 PM and of abusing her husband as a cheater with a threatening to her to drag her out from the house, and searched inside the room after pushing her out which caused her minor child suffering from epilepsy disease ,to become ill .She explained the cause of delay of three days in lodging the FIR because of the illness of her child. A letter dated November 25, 2020 was addressed to the General Manager (O & M) as made annexure to the revisional application by the I.O. intimating him about a team headed by the petitioner went to collect the loan dues of the Corporation on November 8, 2016 at the house of Ashish Bosh and an FIR has been filed on

November 11, 2016 against the higher official of the corporation, which is a government concern.

11. The General Manager (O & M) OF WBFC gave a reply to the said letter to the sub inspector of police Shri Sanjay Chakraborty on November 9,, 2020 intimating that the persons who went to collect the loan dues were entrusted for recovery of the default loan dues of the public fund from Magnifico Craps Private Limited, having its factory at, Howrah Amta Road, on behalf of the Government organisation, West Bengal financial Corporation. It was also informed that Ashish Bose ,one of the Active Director and guarantor of the loan availed of by his company is liable to repay the said public fund blocked by them and mutualise the said loan fund instead of commissioning and running the said industrial concern established, out of the loan fund. It was further intimated that the said team on that particular date visited different contact addresses of all the Directors of the borrower company, including that of the husband of the Opposite Party, no. 2 for the purpose of follow-up action towards recovery of the said loan dues. That apart the officials who visited the house of the husband of the Opposite Party no. 2 stood retired and when the complaint was of dated November 11,, 2016and the General Manager(O & M) was reported about the same long after four years. In the said letter, the designation address of those four officials who went for inspection was also mentioned.

12. The I.O of the case submitted the charge-sheet on September 30 2020 and the same was taken cognizance by the learned Court on October 4, 2021. Nowhere in the charge-sheet anything can be found as to why they took four years to complete the investigation. From the case diary, it is

evident that after November 11,, 2016, on November 12, 2016, the investigation was resumed and thereafter on September 26, 2019. The investigation was further resumed. The statements were recorded under section 161 on November 11,, 2016 and on July 20 20 again the further investigation was resumed and the sketch map was prepared, particulars of the witnesses were collected and the de-facto complainant appeared on September 7, 2020 for recording her statement. However, that was not done since she intimated the officer in charge on September 10, 2020 that due to COVID-19, she would not able to go to court for recording her statement. On September 30,, 2020, the I.O submitted the charge-sheet.

- 13.** The case diary is absolutely silent about the progress of investigation on and from November 12,, 2016, till September 26, 2019. In the decision of ***Mohammad Wajid versus State of U.P***⁹ it was observed that whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceeding quashed essentially on the ground that such proceedings are manifestly, frivolous, or vexatious or instituted with the ulterior motive for wrecking vengeance, then, in such circumstances, the court owes the duty to look into the FIR with care and a little more closely. It was further observed that it will not be just enough for the court to look into the averments made in the 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

⁹ 2023 SCC online SC 951

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 did 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.

14. In the case of ***Naresh Aneja versus State of Uttar Pradesh and another (Supra)*** Hon'ble Supreme Court held that in order to invoke Section 354 of the Indian Penal Code, the offence must be committed against a woman, criminal force must be applied against her and such application of force must be with the intent to outrage her modesty. Ultimate test for ascertaining, whether modesty has been outraged, held the action of the offender, such as could be perceived as one which is capable of shocking, the sense of decency of a woman. The Supreme Court in this case took note of the decision of ***State of Karnataka versus L. Muniswamy***¹⁰ where it was observed in para 7 which is as follows:-

'7:... in the exercise of these wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue, would be an abuse of the process of the court, or that the aims of justice required that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters is designed to achieve a salutary public purpose which is that a court proceeding or not to be permitted to degenerate into a weapon of harassment or

¹⁰ (1977) SCC 699

persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests, and the like would justify the High Court in quashing the proceeding in the interest of justice. The ends of Justice are higher than the ends of mere laws made by the legislature. The compelling necessity for making this observation is that without a proper realisation of the object and purpose of the provision, which seeks to save the inherent powers of the High Court to do justice, between the state and subjects, it would be impossible to appreciate the with and contours of that salient jurisdiction.'

15. The Coordinate Bench in CRR No. 997 of 2020 **Imran Ahmed Ansari AS Mohammed Imran Ahme. & Anr.**, in a case where the bank authorities, including the petitioners there in went to take possession of the mortgaged plot, the complaint was lodged against the recovery agent and bank officials by the wife of the board under various provisions of the Indian Penal Code, including that of 354 IPC, held that public servants, if obstructed, in carrying out their official duty in accordance with law, by filing of such cases, then there shall be serious miscarriage of justice. The coordinate bench further held that *"the petitioners are officials of a nationalised bank and their official recovery agent who proceeded to take possession in accordance with law for default in payment of loan in court of their official duty, and by maintaining all formalities and therefore, justice shall be met in quashing the proceedings"*.

16. In the instant case, it is clear from the inspection report and other materials annexed with the petition that as decided by the appropriate

authority of the corporation, a team of Senior Officials which included the present petitioner being the GM (A&T) visited the residence of the promoter/directors and the directors on November 8, 2016 for a discussion as also to ascertain their social status and financial strength. On that day, they also visited the residence of some other persons however no complaint has been lodged against them by any of the said persons. It is further reflected from the demand notice served to the company that they defaulted in payment on September 30 2016, a sum of ₹1, 16, 04, 035 towards interest and a sum of Rs., 1, 46, 420 50/- towards other charges and the total default towards principal, interest and other charges comes to the sum of ₹1, 17, 50, 455, which is a huge amount remain unpaid.

17. The team on completion of the investigation also submitted a report on October 28, 2016, but the Investigating Officer did not collect a single material and submitted the charge-sheet without waiting for the reply of the letter given by him to the Officials of WBFC dated November 25, 2020 by November 30, 2020. Even after receiving the letter, the I.O. did not pray for further investigation with regard to the case. There is an inordinate delay in sending or forwarding the charge sheet to the learned magistrate who committed grave error in taking cognizance of the said charge-sheet without considering that the same is filed after four years from the date of lodging the complaint. No statement of the de-facto complainant was recorded under Section 164 Cr.P.C, even though the I.O. waited for the same till he was informed by the complainant about her inability to go before the magistrate because of COVID-19 pandemic. It is settled law that the police also has the power to produce additional documents and evidence but despite the reply

given by the G.M (O&M) the I.O. did not bother to collect the same and to produce when he waited for long four years without proceeding with the case.

18. In the case of ***Sharif Ahmed versus the state of Uttar Pradesh.(Supra)***

Supreme Court held that Section 211 to 213 and Section 218 of the code deal with the content of the charge .The object and purpose of these provisions is to bring the nature of allegations against the accused to his notice .These allegations have to be proved and established by leading evidence .The accused should not be taken by surprise or be unbeknownst so as to cause prejudice to him .It is further held that *‘The details set out in the charge sheet have a substantial impact on the efficacy of procedure at the subsequent stages .The charge sheet is an integral to the process of taking cognisance ,the issue of notice and framing of charge ,being only investigative document and evidence available to the court till that stage .Substantiated reasons and grounds for an offence being made in the charge sheet a key resource for a Magistrate to evaluate whether there are sufficient grounds for taking cognisance ,initiating proceedings ,and then issuing notice ,framing charges.’*

19. The Hon’ble Supreme Court way back in the landmark decision ***State of Hariyana vs Bhajanlal***¹¹ laid down certain guidelines for the exercise of the power of quashing which included where the proceeding has been maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to personal and private grudge, to prevent the abuse of process of any Court or otherwise to secure the ends of

¹¹ 1992 Supp (1) SCC 335

justice and also the High Court has the power to quash a proceeding in exercise of power under Section 482 Cr.P.C.

20. On careful analysis of the entire facts and circumstances this Court is of the view that allowing the proceedings to continue further would not only be an empty formality but also would be gross abuse of the process of law.

21. Hence this revisional application stands allowed.

22. The proceeding pending before the learned Court of 5th Judicial Magistrate at Howrah be quashed.

23. No order as to costs.

24. Urgent certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(CHAITALI CHATTERJEE DAS,J.)

सत्यमेव जयते
Calcutta