

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

The Hon'ble **JUSTICE SUVRA GHOSH**

WPA 23996 of 2025

Goutam Chakraborty & Anr.
v/s.
The State of West Bengal & Ors.

For the Petitioners:	Mr. Rajdeep Mazumder Mr. Pritam Roy Ms. Triparna Roy
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For the State:	Mr. Santanu Kr. Mitra Mr. Tapas Kr. Dey
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Hearing concluded on:	08.01.2026
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Judgment delivered on:	16.01.2026
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SUVRA GHOSH, J. :-

1. The petitioners have sought quashing of Baruipur Police Station Case no. 1668 of 2025 dated 25th August, 2025 corresponding to G.R. Case no. 7168 of 2025 primarily on the ground that the FIR does not make out the offences alleged.
2. Learned counsel for the petitioners has submitted that one Gour Biswas lodged written complaint on 8th August, 2025 to the effect that the accused persons therein assaulted one Rajib Biswas on 8th August, 2025 and 9th August, 2025 who succumbed to the injuries. A specific case was registered and it was claimed that the victim belonged to a particular

political dispensation. It is alleged that the first petitioner held a press conference and exhibited a distorted version of the responsibility of the police in such political murder which resulted in severe resentment and confusion in the minds of people and there was every possibility of serious political clash in the area. A suo moto complaint was lodged by the police on 25th August, 2025 against the petitioners under Sections 196(1)(a)/61(2)/352/353(2)/351(2)/3(5) of the BNS. The petitioners are in fact some of the whistle blowers who tried to raise their voice against the heinous murder and have been implicated falsely. The petitioners seek protection of their personal liberty and quashing of the FIR lodged against them.

3. Learned counsel has placed reliance on the authorities in *Patricia Mukhim v/s State of Meghalaya and Others* reported in (2021) 15 Supreme Court Cases 35, *Bilal Ahmed Kaloo v/s. State of Andhra Pradesh* reported in (1997) 7 Supreme Court Cases 431, *State of Haryana v/s. Bhajan Lal* reported in AIR 1992 Supreme Court 604, *E.P. Royappa v/s. State of Tamil Nadu* reported in AIR 1974 Supreme Court 555 and *Maneka Gandhi v/s Raj Narain* reported in AIR 1975 Supreme Court 2299 in support of his contention.
4. Vehemently opposing the prayer of the petitioners and placing reliance on the authority in *M/s. Neeharika Infrastructure Private Limited v/s. State of Maharashtra* reported in AIR 2021 Supreme Court 1918, learned counsel for the State has submitted that due to motivated and wilful intent of the petitioners, there was severe resentment and confusion in the minds of the people and there was every possibility of severe political

clash for which a suo moto complaint was lodged by the police in order to maintain peace and tranquillity in the locality. The allegations in the FIR have been substantiated during investigation which is in progress. Investigation should be allowed to continue since no exceptional case has been made out for quashing the same.

5. I have considered the rival contention of the parties and material on record.
6. It is trite law that though the power of the High Court for quashing FIR or charge sheet is very wide, it should be exercised with great caution so as not to stifle a legitimate prosecution. The High Court should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy. The allegations of malafide are of no consequence and cannot by themselves be the basis for quashing the proceedings.
7. In dealing with the issue of quashing of an FIR, the Hon'ble Supreme Court, in the authority in M/s. Neeharika Infrastructure (supra) has laid down the following parameters:-

“In view of the above and for the reasons stated above, our final conclusions on the principal/core issue, whether the High Court would be justified in passing an interim order of stay of investigation and/or “no coercive steps to be adopted”, during the pendency of the quashing petition under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India and in what circumstances and whether the High Court would be justified in passing the order of not to arrest the accused or “no coercive steps to be adopted” during the

investigation or till the final report/charge sheet is filed under Section 173 Cr.P.C., while dismissing/disposing of/not entertaining/not quashing the criminal proceedings/complaint/FIR in exercise of powers under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India, our final conclusions are as under:

- i. Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into a cognizable offence;
- ii. Courts would not thwart any investigation into the cognizable offences;
- iii. It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on;
- iv. The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the 'rarest of rare cases (not to be confused with the formation in the context of death penalty).
- v. While examining an FIR/complaint, quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;
- vi. Criminal proceedings ought not be scuttled at the initial stage;
- vii. Quashing of a complaint/FIR should be an exception rather than an ordinary rule;

- viii. Ordinarily, the Courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere;
- ix. The functions of the judiciary and the police are complementary, not overlapping;
- x. Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;
- xi. Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;
- xii. The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the Court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be

considered by the learned Magistrate in accordance with the known procedure;

- xiii. The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the Court to be more cautious.

It casts an onerous and more diligent duty on the Court;

- 8. However, the Hon'ble Supreme Court has laid down certain guidelines for exercising such power, in the authority in State of Haryana and Others (supra). The first guideline is relevant and is reproduced hereunder:-

- i. 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.

- 9. The authority in Imran Pratapgadhi v/s. State of Gujarat and Another reported in 2025 Supreme Court Cases OnLine Supreme Court 678 echoes the said observation and reiterates that there is no absolute rule that when the investigation is at a nascent stage, the High Court cannot exercise its jurisdiction to quash an offence. When the High Court, in the given case, finds that no offence was made out on the face of it, to prevent abuse of the process of law, it can always interfere even though the investigation is at the nascent stage. It all depends on the facts and circumstances of each case as well as the nature of the offence.

10. In order to arrive at a conclusion as to whether investigation against the petitioners should be allowed to continue, each of the allegations made against them in the FIR need to be dealt with.

11. Section 196(1)(a)- (1) “Whoever-

(a) by words, either spoken or written, or by signs or by visible representations or through electronic communication or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities; shall be punished with imprisonment which may extend to three years, or with fine, or with both”.

The FIR discloses that the first petitioner alleged that the police administration and a political dispensation were responsible for the murder and destruction of credible evidence. It does not speak about promoting or attempting to promote disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities.

12. Section 61(2) deals with punishment for the offence of criminal conspiracy. Criminal conspiracy is defined in Section 61(1) as hereunder:-

(1) “When two or more persons agree with the common object to do, or cause to be done-

- a) an illegal act; or
- b) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy.”

Herein, the petitioners were allegedly addressing a press conference and holding the police and a political party responsible for the murder. Such act of the petitioners does not constitute criminal conspiracy.

13. Section 352 of the BNS deals with intentional insult with intent to provoke breach of peace. Deliberation of the petitioners in the press conference does not amount to intentional insult or provocation and there was in fact no breach of peace or tranquillity following such deliberation.

14. Section 353(2) of the BNS reads as follows:-

“Whoever makes, publishes or circulates any statement or report containing false information, rumour or alarming news, including through electronic means, with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or communities shall be punished with imprisonment which may extend to three years, or with fine, or with both.”

The statement made by the petitioners as stated in the FIR does not appear to contain false information, rumour or alarming news.

15. Section 351 deals with criminal intimidation. The FIR does not speak of any criminal intimidation at the behest of the petitioners.

16. Section 3(5) deals with criminal act done by several persons in furtherance of their common intention.
17. The Hon'ble Supreme Court, in the authority in Patricia Mukhim (supra) has dealt with Section 153A and Section 505(1)(c) of the Indian Penal Code corresponding to Sections 196(1)(a) and 353(2) of the BNS. The Hon'ble Court has observed that the matter complained of must be read as a whole and strongly worded and isolated passages cannot be relied upon for proving the charge, nor can a sentence here and a sentence there be taken and connected by a meticulous process of inferential reasoning. The Hon'ble Court has referred to the authority in Bilal Ahmed Kaloo (supra) wherein mens rea has been held to be a necessary ingredient for the offence. The Hon'ble Court has observed that it is necessary that at least two groups/castes/communities should be involved. Merely inciting the feelings of one community or group cannot attract such offences.
18. In the case in hand, the petitioners have expressed their opinion with regard to the incident of murder at the press conference which did not result in any agitation or unrest among the public. There was only apprehension of political clash in the complaint/FIR and no provocation of breach of peace by the petitioners.
19. Upon consideration of the entire material on record, this Court is of the view that the case falls within the first parameter laid down in the authority in the State of Haryana and Others (supra). The allegations in the FIR, taken at their face value, do not constitute any of the offences

alleged and allowing the proceedings to continue shall be an abuse of the process of law.

20. In the result, the writ petition being WPA 23996 of 2025 is allowed.
21. Baruipur Police Station Case no. 1668 of 2025 dated 25th August, 2025 corresponding to G.R. Case no. 7168 of 2025 is quashed.
22. The petitioners be set at liberty at once and discharged from their bail bonds.
23. There shall however be no order as to costs.
24. All parties shall act on the server copy of this judgment duly downloaded from the official website of this Court.
25. Urgent certified website copies of this judgment, if applied for, be supplied to the parties expeditiously on compliance with the usual formalities.

(Suvra Ghosh, J)