

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

**PRESENT:
THE HON'BLE JUSTICE UDAY KUMAR**

CRR 3469 of 2017

IA No. CRAN 1 of 2018 (Old No. CRAN 309 of 2018)

**Mritunjoy Roy
-Vs-
The State of West Bengal & Anr.**

For the Petitioner	: Mr. Soumya Nag
For the State	: Ms. Faria Hossain Mr. Aritra Bhattacharya
Hearing concluded on	: 05.02.2026
Judgment on	: 13.02.2026

UDAY KUMAR, J.: –

1. By this revisional application under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter "the Code"), the petitioner seeks the quashing of G.R. Case No. 806/2015, presently pending before the Learned Additional Chief Judicial Magistrate, Durgapur. The proceedings arise from Pandaveswar P.S. Case No. 73/2015, registered under Sections 420, 406, 467, 468, 323, and 506 of the Indian Penal Code. The petitioner contends that the proceedings are a mala fide exercise and an abuse of the process of the Court.
2. The case of the prosecution, as adumbrated in the First Information Report (FIR) and supplemented by the materials collected during the course of

investigation, is that the petitioner, while employing the Opposite Party No. 2 as a driver, induced him to allow a truck (No. WB 37-7276) to be purchased and registered in the driver's name. It is alleged that the petitioner represented that he was unable to obtain finance in his own name and, reposing trust in his employer, the driver executed various bank documents, cheques, and loan agreements.

3. The narrative disclosed in the FIR, and substantiated by the materials in the Case Diary, reveals a distressing case of alleged fiduciary breach. The petitioner, while employing Opposite Party No. 2 as a driver, allegedly induced him to register a truck (No. WB 37-7276) in his own name. The petitioner represented that his own credit standing prevented him from securing finance. Relying on this employer-employee trust, the driver executed loan agreements and bank documents.
4. It is alleged that the petitioner withheld a portion of the driver's salary for the down payment and took responsibility for the EMIs. However, by March 2015, the complainant was saddled with a default notice exceeding Rs. 8.6 lakhs. When the driver sought redress, he was allegedly met with physical assault and threats. The vehicle, significantly, is now untraceable.
5. The genesis of this criminal action lies in an application filed by the Opposite Party No. 2 (complainant) under Section 156(3) of the Code. The complainant, a driver formerly employed by the petitioner, alleged that the petitioner induced him to purchase a truck (WB 37-7276) in his name, citing the petitioner's own inability to secure finance. It was alleged that the petitioner withheld part of the complainant's salary for the down payment and promised to pay the monthly instalments to the finance company. Later, upon receiving

a legal notice for default by non-payment of the dues, in March 2015, the complainant discovered that the petitioner had stopped paying the EMIs while retaining the profits from the vehicle. When confronted, the petitioner allegedly threatened the complainant with dire consequences. The investigation has since revealed a default to the tune of Rs. 8,61,554.93/-, and the vehicle itself is reportedly untraceable.

6. Mr. Soumya Nag, Learned Counsel for the petitioner submitted that the initiation of the case is a gross abuse of the process of law. He underscored that the complainant failed to move the Superintendent of Police under Section 154(3) before approaching the Magistrate. He argues that the mandatory guidelines laid down by Apex Court in *Priyanka Srivastava v. State of U.P.* [(2015) 6 SCC 287] were ignored/violated. He further submitted that the transaction is essentially civil and contractual in nature.
7. Conversely, Mr. Faria Hossain, Learned Counsel for the State and the Complainant argued that the allegations are serious, involving the forgery of signatures and cheating of a poor driver, and thus the investigation should proceed.
8. It was also pointed out that the petitioner, by abusing a fiduciary relationship of employment, misappropriated the complainant's identity to secure an asset and has now saddled the complainant with a massive liability while the vehicle remains in the petitioner's unauthorized possession.
9. Two questions arise for consideration: first, whether the procedural lapse in invoking Section 156(3) is fatal; and second, whether the dispute is purely civil.

10. I have carefully considered the submissions and perused the materials on record. The law regarding the invocation of Section 156(3) is no longer *res integra*. In *Priyanka Srivastava v. State of U.P.* [(2015) 6 SCC 287], the Hon'ble Supreme Court held:

"30. ...a stage has come where Section 156(3) applications are becoming a routine. They are filed for settling scores... there has to be prior applications under Section 154(1) and 154(3) while filing a petition under Section 156(3)."

11. The Court further mandated that such applications must be supported by an affidavit to prevent the criminal law from being set in motion on a whim.

12. In the present case, a perusal of the application under Section 156(3) reveals a total absence of any reference to Section 154(3). The complainant moved the Learned Magistrate straightway after allegedly approaching the Police Station. There is no proof that the higher police authorities were ever informed.

13. The law as declared in *Priyanka Srivastava (supra)* is intended to serve as a filter against frivolous litigation. However, a procedural irregularity in invoking Section 156(3) cannot be treated as a jurisdictional guillotine if the materials on record *prima facie* disclose the commission of a serious cognizable offence. The "affidavit" requirement is a rule of caution, not a tool to grant immunity to a perpetrator where the Case Diary reveals substantial incriminating evidence.

14. The distinction between a mere breach of contract and the offence of cheating is dependent on the intention of the accused at the time of inducement. If the petitioner induced the complainant to sign documents with the pre-meditated intent of utilizing the asset for himself while shifting the liability onto a

subordinate, the "dishonest intention" is present at the inception. In the present case, the fact that the petitioner facilitated the finance in the name of a driver who could not afford it, and subsequently defaulted while keeping the vehicle, points towards a fraudulent design.

15. Even if one were to argue that the finance transaction has civil overtones, the allegations of Section 323 (hurt) and Section 506 (criminal intimidation) are distinct criminal acts. The Case Diary contains statements under Section 161 of the Code where witnesses describe the petitioner's high-handedness. As held in various decisions of this Court, the existence of a civil profile to a dispute does not automatically oust the criminal jurisdiction if independent criminal acts are committed during the course of such dispute.
16. The petitioner seeks to bring his case within the categories of *State of Haryana v. Bhajan Lal* [1992 Supp (1) SCC 335]. However, Category 1 and 5 of the said judgment do not apply here. The allegations are not "inherently improbable." On the contrary, in the socio-economic context of employment in the transport sector, such exploitation of drivers by vehicle owners is a plausible narrative that requires a full-scale trial.
17. From the extensive discussions above, the following distinctive conclusions emerge:
 - a. Where a person in a dominant position (employer) utilizes the identity of a dependent (employee) to secure financial benefits and subsequently abandons the liability, such act constitutes a *prima facie* case of criminal breach of trust.

- b. A criminal proceeding cannot be quashed merely because the remedy of a civil suit for recovery is available. The two are not mutually exclusive if the ingredients of an offence are met.
- c. The inherent power of the High Court is to be exercised *ex debito justitiae* to prevent abuse. Quashing a case where an investigation has revealed a loss of over Rs. 8 lakhs and physical assault would itself constitute a failure of justice.

18. In view of the aforesaid discussions, it is clear that Rule of law requires the Court must not conduct a "mini-trial" at this stage. The Investigating Officer has seized the agreement and verified the defaults. To stifle the prosecution now would be to deny the complainant his right to prove a complex fraud.

19. In view of the discussions above, the following orders are passed:

- (i) The Criminal Revisional Application being 3469 of 2017 is dismissed.
- (ii) I.A No. CRAN 1 of 2018 (Old No. CRAN 309 f 2018) is also disposed of accordingly.
- (iii) The proceedings in G.R. Case No. 806/2015 shall continue in accordance with the law.
- (iv) The Learned Magistrate is directed to expedite the trial and shall not be influenced by any observations made herein regarding the factual merits of the case.

20. There shall be no order as to costs.

21. All consequential Interim order/orders, if any, shall stand vacated.

22. The Trial Court Record (TCR), if any, shall be sent down to the Trial Court, at once.

23. Case diary, if any, be returned forthwith.

24. Urgent Photostat certified copy of this judgment, if applied for, be given to the parties, as expeditiously as possible, upon compliance with the necessary formalities in this regard.

(Uday Kumar, J.)