IN THE HIGH COURT AT CALCUTTA

CRIMINAL REVISIONAL JURISDICTION

APPELLATE SIDE

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. No. 5142 of 2024

Nayan Chand Aditya & Anr.

Versus

The State of West Bengal & Anr.

For the Petitioners	:	Mr. Malay Bhattacharya, Adv. Mr. Pradip Paul, Adv.
For the Opposite Party No. 2	:	Mr. Aswini Kr. Bera, Adv. Mr. Arijit Bera, Adv.
For the State	:	Mr. Soumyapriya Choudhury, Adv. Ms. Shalu Gupta, Adv. Ms. Kritika Jain, Adv.
Heard on	:	24.09.2026
Judgment on	:	06.10.2026
Uploaded on	:	06.10.2026

Ajay Kumar Gupta, J.:-

1. By filing the instant Criminal revisional application under Section 482 of the Code of Criminal Procedure, 1973 (in short,

'Cr.P.C.')/corresponding to under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (in short, 'BNSS'), the petitioners herein seek quashing of the proceeding being Debra Police Station Case No. 242/2024 dated 22.04.2024 under Sections 447/323/354B/509/34 of Indian Penal Code corresponding to G.R. 1069 of 2024, pending before the Court of the Learned Chief Judicial Magistrate, Paschim Medinipur and all orders passed therein.

2. The facts in a nutshell are that the opposite party no. 2 had lodged a written complaint before Debra Police Station, which was treated as a general diary being GD No. 1966 of 2024 dated 31.03.2024. However, on account of being dissatisfied with the action of the police authorities, opposite party no. 2 filed a complaint under Section 156(3) of Cr.P.C. before the jurisdictional Magistrate and upon hearing the Petitioners and upon direction of the Learned Court below, the police authority treated the said complaint as FIR resulted in registration of Debra Police Station Case No. 242/2024 dated 22.04.2024 under Sections 447/323/354B/509/34 of Indian Penal Code against the accused persons.

3. It has been alleged, inter alia, in the written complaint that on 31.03.2024 at 10.00 hrs to 10.30 hrs, the petitioners herein along with some other unknown persons forcefully entered into the land of the opposite party no.2 and started to cut branches of trees. When

the complainant tried to protest against such illegal activities, the petitioners herein, being the accused persons, assaulted her and outraged her modesty.

4. It is the contention of the present petitioners that the allegations as levelled by the opposite party No.2 herein in her complaint are totally false and fabricated on account of previous grudge. On 31.03.2024, as the petitioners herein were cutting some of the useless plants over their own property, the opposite party no. 2, along with her two sons, entered their property and disturbed the petitioners and also threatened them with dire consequences. It is further submitted that the petitioners herein immediately lodged a written complaint before the local police station and the same was registered as a general diary being Debra Police Station GDE No. 1989 dated 31.03.2024.

5. The Petitioners further contended that, actually, the opposite party No.2 herein, along with her husband, forcefully encroached upon the public road situated in front of the property of the petitioners and constructed a house in a way, blocking the ingress and egress of the petitioners herein. Finding no other way, the petitioners herein filed a Writ Petition before the Hon'ble High Court, being WPA No. 1240 of 2023. The said matter came up for hearing before the Hon'ble the then Co-ordinate Bench, on 10.02.2023, wherein, upon considering the submissions of the Learned Advocates for the parties, the Hon’ble

Judge was pleased to direct the concerned collector to consider the representations and dispose of the same within a period of six weeks after giving an opportunity of hearing to all necessary parties.

6. The Petitioners further submitted that in the said writ petition, the present opposite party No. 2 as well as her husband were made respondents and out of personal grudge, and in connivance with each other, they had lodged the instant complaint only to harass the petitioners herein. That in the complaint dated 22.04.2024 the opposite party No.2 herein cited one Jharna Patra as witness but the said witness was also one of the respondents in the said writ petition, and as such it can safely be construed that the allegations levelled against the petitioners herein are totally false, fabricated and only to malign them.

7. On 13.08.2024, the opposite party No. 2 herein, along with her husband, entered the shop of the petitioners, and threatened them with dire consequences. With no alternative in sight, the petitioners lodged a written complaint before the local police authorities, being Debra Police Station GDE No. 736 of 2024 dated 13.08.2024.

8. The petitioners further contended that there is a case and counter case over the self-same incident. Since the allegations made in the complaint are baseless and the complainant failed to establish any prima facie offence committed by the Petitioners herein, sufficient

ground for initiation of proceedings against the Petitioners herein has not been established, and thus, the instant criminal case is liable to be quashed at once; otherwise, it would be a violation of natural justice and a gross abuse of the process of law.

9. Learned counsel appearing on behalf of the petitioners submitted that the whole case is false and frivolous. The complainant lodged this complaint against the petitioners as a counterblast to the complaint, after lodging complaint by the petitioners against the Opposite parties. The opposite parties are actual culprits; they themselves interfered with the petitioners differently. The Opposite parties are continuously disturbing the petitioners' free ingress and egress to their premises. The whole case is based on false and fabricated facts. That should not be allowed to continue; otherwise, it would greatly prejudice the petitioners, who are wholly innocent. During investigation, nothing has been established against the petitioners for participation in the commission of the offence as alleged as such, case is liable to be quashed at the threshold to secure the ends of justice.

10. Learned counsel appearing on behalf of the opposite party no. 2, on the other hand, submitted that pursuant to the order dated 10.02.2023 passed by the Hon'ble High Court in WPA 1240 of 2023, the Collector has given an opportunity of hearing to the parties

including the petitioners herein, and finally decided that the petitioners and Opposite parties were found to have trespassed on the public land, and both parties are unauthorised occupants of the land in question. Both parties lodged complaint against each other. During investigation, sufficient material was collected against the petitioners to establish a prima facie case for commission of the offence punishable under sections 447/323/354B/509/34 of the Indian Penal Code, 1860. Therefore, the criminal revisional application filed by the petitioner is liable to be dismissed; otherwise, the de facto complainant would not get justice from the court of law.

11. Learned counsel appearing on behalf of the State submitted that during investigation, the investigating officer investigated the case properly and recorded statements of the witnesses and victim lady under section 161 and 164 of the Cr.P.C. respectively and collected sufficient materials against the petitioners for commission of offence as alleged. The material discloses the cognizable commission of the offence and further establishes a prima facie case against the petitioners; there is no scope to interfere with the charge sheet. Therefore, the accused persons should face the trial, as such Revisional application is liable to be dismissed.

12. Having heard the learned counsels appearing on behalf of the respective parties and having gone through the materials available on

the record as well as the case diary produced by the State, this court is of the opinion that there are disputes between the parties over the land occupied by them. Both the landed properties are adjacent to each other.

13. It is further revealed from the record that the petitioners had filed a writ petition before the Hon'ble High Court at Calcutta, being WPA No. 1240 of 2023. On 10.02.2023, a coordinate Bench of this Court finally heard the said writ petition and directed the Collector to consider the representations submitted by the petitioners as well as private respondents praying for settlement of land occupied by them. According to the submission made by the Learned Counsel for the Opposite Party No. 2, both the petitioner and Opposite Party No. 2 have occupied the Government land. This court is quite conscious that the case in hand is not connected with the civil disputes or unauthorised occupation of the parties. This court is only concerned with a criminal case. The allegation made by the de facto complainant against the petitioners is found to be supported by materials available in the case diary. Materials available in the case diary well established the prima facie case for commission of the offence against the petitioners as alleged.

14. When sufficient material is found against the petitioners for alleged commission of the offence, this Court, even while exercising inherent

power under section 482 of the Cr.P.C. corresponding to Section 528 of the BNSS, would refrain from quashing the criminal case based on materials and in such a situation, the court ought not to scuttle criminal proceedings at the initial stage. This Court is fortified this view upon perusal of the law laid down by the Hon'ble Supreme Court in the case of ***Neeharika Infrastructure Pvt. Ltd Vs. State of Maharashtra and Others***[1].

15. The Hon'ble Supreme Court in ***Neeharika Infrastructure Pvt. Ltd. (Supra)*** has also laid down several guidelines to be followed by the court while exercising its power under Section 482 of the Cr.P.C./or under Article 226 of the Constitution of India. Out of those guidelines, a few are as under:-

> *"i) 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).*
>
> *ii) Criminal proceedings ought not to be scuttled at the initial stage;*
>
> *iii) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;*
>
> *iv) 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;*
>
> *v) While examining an FIR/complaint, quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or*

[1] (***2021) SCC Online SC 315***

genuineness or otherwise of the allegations made in the FIR/complaint;

vi) Quashing of a complaint/FIR should be an exception rather than an ordinary rule;

vii) When a prayer for quashing the FIR is made by the alleged accused and the Court when it exercises the power under Section 482 Cr.P.C., only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The Court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the Court has to permit the investigating agency/police to investigate the allegations in the FIR;"

16. In the light of above discussions and also in view of the aforesaid guidelines laid down by the Hon'ble Apex Court, this Court does not find any sufficient reasons or cogent grounds to quash the proceeding initiated against the present petitioners being Debra Police Station Case No. 242/2024 dated 22.04.2024 under Sections 447/323/354B/509/34 of Indian Penal Code corresponding to G.R. 1069 of 2024, pending before the Court of the Learned Chief Judicial Magistrate, Paschim Medinipur.

17. Accordingly, **CRR No. 5142 of 2024** is, thus, **dismissed**. Connected applications, if any, are also, thus, disposed of.

18. Let a copy of this Judgment be sent to the Learned Court below for information.

19. Case diary, if any, be returned to the Learned counsel for the state forthwith.

20. Interim order, if any, stands vacated.

21. All parties will act on the server copies of this Judgment uploaded on the official *website* of this Hon'ble High Court.

22. Urgent photostat certified copy of this Judgment, if applied for, is to be given as expeditiously to the parties on compliance of all legal and necessary formalities.

(Ajay Kumar Gupta, J.)

(P.A.)