

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

Present:-

HON'BLE JUSTICE CHAITALI CHATTERJEE DAS.

CRR 4828 OF 2023

JOYTIRMOY RAI CHOWDHURY @ JOYTIRMOY ROY CHOWDHURY
VS.

THE STATE OF WEST BENGAL & ANR.

For the Petitioners : **Mr. Swapan Kumar Mallick, Adv.**
Ms. Sudeshna Das, Adv.

For the Opposite Party : **Mr. Kallol Kumar Basu, Adv.**
Md. Jannat UI Firdous, Adv.
Mr. Rajsekhar Hota, Adv.

For the State : **Mr. Rudradipta Nanady, Adv.**
Mr. Saryati Dutta, Adv.

Last heard on : **27.02.2026**

Judgement on : **13.05.2026**

Uploaded on : **13.05.2026**

CHAITALI CHATTERJEE DAS, J. :-

1. This Revisional Application has been filed for quashing of the entire proceeding being C. Case no. 342 of 2021, pending before the court of learned

2nd Judicial Magistrate, Basirhat, 24 Parganas under Section 447/384/323/325/379/427/504/506/34 of the Indian Penal Code lodged by the Opposite Party no. 2 on 23.7.2019.

Brief fact of the case

2. The fact of the case in brief is that the opposite party no 2 lodged a complaint under Section 200 of the Code of Criminal Procedure before the learned Additional Chief Judicial Magistrate, Basirhat, North 24, Parganas, alleging inter alia that in the year 2019, he received a power of attorney from the present petitioner and his two brothers which was registered on 23.7.2019 before the ADSR Basirhat. The petitioner and his two brothers allegedly received Rs. 3 lakhs and issued receipt. On the date of incident on 25.7.2021 when he came out from his house riding a Bike and was to reach at S.N Mukherjee Road the petitioner and 7/8 person with a previous grudge suddenly attacked him ,demanded share of the house sold by him and abused him with filthy languages and on raising protest he was assaulted by the petitioner after dragging him from the Bike and assaulted him with fists and blows and then they damaged his Bike with brick and snatched an amount of Rs. 6,200 from his pocket and while leaving, they also threatened them with dire consequences. After such complaint was filed on 18.9.2021, the cognizance of the offence was taken on that day and it was transferred to the Court of learned Judicial Magistrate, Second court, Bashir hat, North 24 Parganas for disposal. After that, the said case was adjourned from time to time and on 21.11.2022, the Opposite Party no. 2 was examined under Section 200 and process was issued fixing the returnable date on 2.2.2023.

3. The petitioner who lodged a criminal complaint before the officer in charge, Bashirhat Police Station on 23.7.2021 against the present opposite party No.2 with an allegation that on 23.7.2019, he along with his brothers executed one Development power of attorney with Opposite Party no. 2 for 37.5 decimal of land. It was agreed that the said land would be utilised only for the development and for agricultural purpose but 66 Satak of land was fraudulently sold to another person in lieu of Rs. 40 lakhs.
4. On receipt of such complaint, Bashirhat Police Station case no. 505/2021 dated 23.7.21, under Section 468/471/420/406 of the Indian Penal Code started. The Opposite Party no. 2 was arrested in connection with the above case on 27.8.21 and released on ad-interim bail on 2.9.2021. A civil suit was also filed by the petitioner and his two brothers after lodging such FIR and the said suit is now pending before the Civil Judge, Senior Division, Bashirat, North 24 Parganas, where an order of interim injunction has been passed on 20.5.2022 in their favour.

Submissions

5. It is submitted by the learned advocate that the instant case has been filed, out of vengeance and is a counterblast to the civil suit as well as the criminal case lodged by the petitioner for which he had to undergo an imprisonment for considerable period. It is also submitted that the allegations levelled against the petitioner under Section 468/471/420/406 of the Indian Penal Code does not lie as there was no intention of deception since inception. It is further contended that the fraud actually has been committed by the Opposite Party no. 2, which is already being investigated by the officials of the concerned

police station, and hence the present case is liable to be quashed. The learned Advocate further argued that the complaint is filed after a long delay without complying of 154(3) of Cr.P.C and or giving any cogent explanation. It is further argued that the date of incident differs while examining under S.A and the date mentioned in the complaint. But the Learned Magistrate failed to apply his judicial mind while took the cognizance and issued the process. Accordingly prays for quashing of the proceeding as it would be an abuse of the process of law if allowed to be continued.

6. Per Contra it is the contention of the prosecution that the cognizance was taken by the Learned Court as primary materials were available and accordingly issued process against all concerned in order to dig out the truth. The inimical relationship existed between the parties and hence the petitioner must face the court.

7. The learned Advocate representing the opposite party no2, on the other hand, argued that after recording initial deposition, the cognizance was taken by the court after being satisfied about the existence of materials and thereafter considered the initial deposition. The nature of allegation is serious enough and hence the prayer for quashing should not be entertained.

Analysis

8. Having heard the learned advocates. On perusal of the materials on record it appears the allegations levelled against the petitioner are under Section 447/384/323/325/379/427/504/506/34 of the Indian penal code. It is apparent that two complaints were lodged against the two brothers alleged to

have occurred on two different dates but the date of incident as mentioned on the first page of the complaint initially mentioned as 25.7.2020 but corrected by hand as 2021. The factual difference can be found only with regard to the amount alleged to be snatched away from the pocket of the opposite party no 2. The amount in this case is Rs. 6,200/- when in the other case Rs. 1260 and the number of persons attacked were 7/8 persons when it was 5/6 persons. The place of occurrence is shown on the road and here no allegation of outraging modesty was incorporated.

9. From the record and the submissions made before this court, it is found that before Bashirhat Police Station two similar complaints was lodged by both Ranadeb and Jyotirmoy Roy Chowdhury (the present petitioner) against the present opposite party no. 2 on 3.7.21 and 25.7.21 respectively under Section 468/471/420/406 on 23 July 2021. It was alleged in the said complaint that on 23.7.2019, a development power of attorney was executed with Opposite Party no. 2, and the petitioner, where it was clearly stated that the land will be utilised only for the development and of agricultural purposes under their advice. The accused assured them to discharge his duty as attorney holder with utmost honesty and transparency. The said Power of Attorney was registered on 31.7.2019. Subsequently, at the time of submission of ITR filing for the financial year 2020–2021, he found that 9 numbers of transactions of Rs. 6, 66, 620 each dated 24.6.2020 was shown in 26AS against his PAN. The petitioner being a citizen of 75 years and a retired person bewildered by such huge transaction in his account, and after conducting necessary enquiry, came to suspect that the Opposite Party no.2 made fraudulent transaction to

the tune of Rs. 40 lakhs in his name and with his PAN on the strength of power of attorney. He not only sold out 66 satak land amounting ₹40 lakhs to Prasenjit Dey and Rakesh Das but also misappropriated the entire amount.

10. The complaint under Section 200 was lodged by the opposite party no.2 against the present petitioner in respect of an incident on 23.7.2020 under Section 447/384/323/325/379/427/504/506/34 IPC before the ACJM Bashirhat. It was alleged there in that on 23.7.2019, the power of attorney was registered, which was executed by Ranadev Chowdhury, the petitioner herein, Shri Jyotirmoy and Rai Chowdhury, and on 28.7.2019 an amount of ₹3 lakhs was received by them by giving receipt. Unfortunately, on the date of incident, the present petitioner along with 7/8 unknown persons assaulted him when he was riding in a bike, damaged his bike abused him with filthy languages and demanded an amount towards the land snatched Rs. 6,200/- from his pocket.

11. Prima facie it is found from the written complaint that the allegation was against the petitioner along with 7/8 unknown persons, but no specific overt act has been attributed against any of them as to who, and in which manner assaulted him. The incident cannot be ascertained when the complaint was lodged on 18.9.21 though in this case the date of incident is mentioned as 25.7.21 without making any whisper of any incident taken place on that day. The year is changed manually in the complaint. That apart it is stated though the entire incident was intimated to the police official, no action was taken against him and hence the complaint was lodged before the court without specifying any date or month when such intimation was given. The learned

Magistrate took cognizance on 18.9.2021 without assigning any reason for taking such cognizance and transferred the matter to the learned Judicial Magistrate, 2nd Additional Court, Bashirhat for disposal. The complainant was examined on 17.2.23 after a number of dates were fixed for SA and adjourned on the prayer of the complainant when the complainant was examined on SA under Section 200 Cr.P.C. The learned Court considered the initial deposition, the petition of complaint and was of the view that there is sufficient ground to proceed against the accused persons for the offences punishable under the aforesaid sections and accordingly issued process.

12. In the case of ***Uma Shankar Yadav versus and another versus State of Uttar Pradesh through Chief Secretary and another***¹ the Hon'ble Supreme Court in paragraph 11 observed;

“11. Summoning of an accused is a serious matter which affects liberty and dignity of the individual concerned. Judicial intervention under Section 482 CRPC to weed out vexatious proceedings is of pivotal importance in order to protect individuals from untelling harassment and misery and to ensure unmerited prosecutions do not crowd overflowing dockets of criminal quotes and yield space for deserving cases. Faced with the agony of a lame prosecution, it is of little solace to a litigant to be told that inherent powers are shut out as he is entitled to approach the trial court and pray for discharge. The inherent power of the High Court to prevent abuse of process of court is much wider in amplitude than the discharge powers and cannot be whittled down on

¹ 2025 INSC 653

the play of existence of such remedy (Ashok Chaturvedi and others versus Shitul H. Chanchani and Anr. (1998) 7 SCC 698.”

13. In the given case, the complaint was filed on 18.9.2021 and on that day, the cognizance of offence was taken and was transferred to the judicial magistrate, 2nd court for disposal where after several dates were fixed on 21.11.22, the opposite party No.2 was examined. While initial deposition was made by the complainant, no whisper was made about any civil proceeding which has been lodged against them by the petitioner and obtained an order of interim injunction. The present petitioner is a septuagenarian. Allegation of physical assault upon the Opposite Party ,coupled with allegations of outraging modesty of his wife by pulling her saree ,have also been levelled against him . It further transpires that the petitioner had earlier lodged a complaint against opposite party no 2.alleging fraud, pursuant to which the said opposite party had to spend a considerable period behind bars. In such circumstances the possibility of false implication stemming from personal vengeance cannot be ruled out. Nothing was mentioned regarding any medical paper to establish the assault. More importantly, no date or month when he informed the police station immediately after such incident cannot be found from the four corner of the said complaint excepting a vague statement of intimating the police and no action is taken.

14. It is a settled law after the judgement of **Lalita Kumari²** that if a cognizable offence is reported to a police station it is mandatory to registered the F.I.R and if it is not done the superintendent of police to be informed .

² AIR 2014 SC 187

When his bike was broken, he was assaulted by 7/8 persons and an amount of 6,200/- was snatched away is quite natural that the person would report the same to police .Unfortunately the opposite party did not annex with the complaint any document or even disclosed any date or time when he informed and then why he waited for more than 1 and half moth after such incident. The complainant was taken into custody on 27.8.21 and was released on 2.9.21. So if the incident happened on 25.7.21 and he was arrested on 27.8.21 had almost a month time when he did not lodge any complaint. It is pertinent to mention that he alleged not only against the petitioner but also 7/8 person without giving any description of them and describing any overt act or the role attributed by the alleged persons. It is apparent that there existed an inimical relationship between the parties and on the basis of complaint lodged by the present petitioner the Opposite Party no. 2 was taken behind the bar. Furthermore the Opposite Party assailed the allegation of fraud and misappropriation on the strength of Power of Attorney. It is pertinent to mention herein the complainant also lodged similar complaint with the same allegation against the brother of the petitioner .The entire complaint is found to be almost similar like the complaint lodged against the brother of the petitioner excepting the date of incident on the first page of the complaint without averring the date in the body of the application. The amount snatched changed from Rs.1260/from his pocket to Rs 6,200/- by the petitioner .The number of miscreants with the petitioner is increased to 7/8 persons in place of 5/6 persons and the place of incident is on the road while he was riding in a bike. No number of the bike was mentioned. The aforesaid facts and circumstances coupled with nature of the allegations unmistakably suggest

that the complaint is a product of afterthought lodged as a counter blast to the complaint lodged by the petitioner against the opposite party no 2 alleging fraud practiced upon him and his brother.

15. In the case of *Inder Mohan Goswami and Another vs State of Uttaranchal & ors*³, it was emphasized that the criminal prosecution must not be permitted as an instrument of harassment or private vendetta. The power under Section 482 Cr.P.C. can be exercised where there is abuse of the process of law and to secure the ends of justice. In the case of *Suryalakshmi cotton mills ltd vs Rajvir industries ltd.*⁴ it was held that where the defence relies upon an impeachable uncontroversial evidence of sterling qualities such as the documents of undisputed authenticity those documents can be considered. The petitioner has annexed the complaint lodged by him against the Opposite Party no. 2. Hence, this Court can very well consider that document.

16. The jurisdictional point raised in the petition is not applicable as the alleged incident happened within the jurisdiction of Basirhat Court. In the decision reported in, *Sanjay Kumar Rai versus State of Uttar Pradesh and other*⁵ as relied upon by the petitioner the CJM took cognizance of the matter well before framing of charge and the applicant sought his discharge under Section 239 Cr.P.C and the said order was not considered against which the application was filed for reversal of such order. The revisional application was dismissed against which the Special leave petition was filed before the Hon'ble

³ (2007)12 SCC 1

⁴ (2008) 13 SCC 678

⁵ 2021 SCC OnLine SC 367

Supreme Court. The point was raised regarding limited scope of a criminal revision to jurisdictional error alone. However this decision is distinguishable on factual score.

17. Accordingly on consideration of all the facts and circumstances and the inimical relationship between the parties, prolong delay in lodging complaint without assigning any reason thereafter and that the OP No. 2 is an accused in connection with a case of forgery and cheating prima facie established that it is an afterthought out of grudge.

18. The present case is fully covered by categories (1) and (5) & (7) as enumerated in ***State of Haryana and Others v. Bhajan Lal and Others***⁶. A bare perusal of the complaint on the basis of which FIR came to be registered at the instance of the de-facto complainant/ Opposite Party no. 2 did not disclose any act of the present appellant or his participation in the commission of crime as alleged. Accordingly this proceeding is liable to be quashed qua the petitioner.

Conclusion

19. Hence this C.R.R 4828 of 2023 is hereby allowed. The proceeding pending before the learned Court of 2nd Judicial Magistrate, Bashirhat, North 24 Parganas being C. Case no.342 of 2021 is hereby quashed qua the petitioner.

20. The criminal Department is directed to forward the copy of this order to the concerned court for information and necessary action.

⁶ 1992 Suppl (1) SCC 335

21. 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.]

