

27.04.2026

Item no.43

Court No.5.

**In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Criminal Revisional Jurisdiction**

CRR 56 of 2026

In the matter of : Bhaskar Paul

.....Petitioner.

Mr. Abhijit Sarkar, Id. APP
Mr. Tapan Bhattacharjee
..for the State

The present revisional application has been filed under Section 528 of the BNSS, corresponding to Section 482 of the Code of Criminal Procedure, 1973, seeking quashing of Special Case No. 83 of 2025 arising out of Samuktala P.S. Case No. 187 of 2025 dated 23.07.2025, under Section 10 of the Protection of Children from Sexual Offences Act, 2012 (for short, POCSO Act), presently pending before the learned Special Court at Alipurduar.

Mr. Sarkar, learned advocate appearing for the petitioner, contends that the criminal proceeding (Special Case No. 83 of 2025) originates from a suo motu complaint lodged by a Sub-Inspector of Police, and that neither the victim nor any guardian has lodged any complaint against the petitioner, who is a teacher with 17 years of unblemished service. He further submits that no preliminary inquiry was conducted prior to initiation of the proceeding.

He further submits that the alleged incident occurred in a classroom in the presence of nearly 100 students. He contends that the petitioner had merely scolded certain students for not completing their

homework; however, he has been falsely implicated in the present case. He further submits that the complaint does not disclose any specific overt act, nor is there any material indicating sexual intent, which, according to him, is a *sine qua non* for invocation of Section 10 of the POCSO Act.

He further submits that there are irreconcilable contradictions between the complaint and the statements recorded under Section 183 of the BNSS. He contends that, even if the allegations are taken at their face value, they do not constitute any offence and, as such, according to him, continuation of the criminal proceeding would amount to a miscarriage of justice and an abuse of the process of law. He further submits that, if the proceeding is allowed to continue, it would set a dangerous precedent by exposing teachers to criminal prosecution for routine classroom discipline. In support of his contention, he cites a decision, 2025 SCC OnLine Del 1404 (MRP (Identity Withheld) vs. State (NCT of Delhi)).

Per contra, Mr. Chakraborty, learned APP appearing for the State, produces the case diary and opposes the petitioner's prayer for quashing of the proceeding on the basis of the materials contained therein. Mr. Chakraborty submits that it cannot be said that the allegations do not constitute any offence, even if they are taken at their face value. He further submits that the issues as to whether there are irreconcilable contradictions between the complaint and the statements of the witnesses, or whether the ingredients of Section 10 of the POCSO Act are satisfied, or whether there was any sexual intent, cannot be adjudicated at this stage. He submits that, following the alleged incident, the victim was unwilling to attend school thereafter.

Heard the learned advocate appearing for the respective parties and perused the materials on record including the case diary.

Needless to emphasise, the power to quash a criminal proceeding is to be exercised sparingly, with circumspection, and in the rarest of rare cases. Though the power is wide, it is not unlimited. In *State of Haryana vs. Bhajan Lal*, the Hon'ble Supreme Court delineated illustrative categories of cases in which such power may be exercised. In the decision, it was, inter alia, observed that where the allegations contained in the FIR or complaint, even if taken at their face value and accepted in their entirety, do not constitute any offence, the proceeding may be quashed. However, at this stage, the Court is not expected to embark upon an enquiry into the reliability or genuineness of the allegations made in the FIR or complaint. Further, where the allegations are so absurd and inherently improbable that no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused, or where the criminal proceeding is manifestly attended with mala fides and/or maliciously instituted with an ulterior motive for wreaking vengeance on the accused due to private and personal grudge, the proceeding may be quashed.

In the present case, the complaint alleges that, upon receipt of information that the petitioner had inappropriately touched the victim, a process of counselling and enquiry was conducted, and upon receipt of the counselling-cum-enquiry report, the complaint was lodged suo motu. Needless to state that any act involving physical contact with sexual intent constitutes an offence of sexual assault, as defined under Section 10 of the POCSO Act.

At this stage, as noted previously, the Court ought not to embark upon an enquiry into the reliability or genuineness of the allegations. Nor can it be presumed, as a matter of course, that such an

offence could never be committed in the presence of nearly 100 students so as to render the allegations absurd or inherently improbable. Furthermore, the question as to whether there are any irreconcilable contradictions between the complaint and the statements of the victim or other witnesses recorded during the course of investigation is a matter to be considered at trial. Likewise, the issue as to whether there was any sexual intent is also to be determined upon appreciation of the evidence adduced during trial. If that be so, it is needless to state that the petitioner shall be entitled to the benefit of such infirmities in the prosecution case at the time of trial.

Therefore, in view of the discussions made in the foregoing paragraphs, I do not find any justification to hold that the allegations contained in the complaint, even if taken at their face value, do not constitute any offence, or that continuation of the present proceeding would amount to an abuse of the process of law or result in a miscarriage of justice for any of the grounds urged by the petitioner.

Accordingly, the revisional application fails and is, therefore, dismissed.

It is clarified that the learned Trial Court shall proceed with the trial without being influenced by any of the observations made in this order.

(Partha Sarathi Chatterjee, J.)