

CALCUTTA HIGH COURT
In the Circuit Bench at Jalpaiguri
Criminal Miscellaneous Jurisdiction

Before:

The Hon'ble Mr. Justice Jay Sengupta

C.R.R. 85 of 2026

Shri Govind Kallani @ Gobinda Kalyani
Vs.
Shri Maheswar Roy

For the Petitioner	:	Mr. Ajay Singhal, Ms. Heena Yasmin Shaikh, Ms. P. Khaitan.
For the Opposite Party	:	Mr. Tapas Ghosh, Mr. Debasish Mukhopadhyay, Ms. Madhusri Dutta, Md. Bipasha Mrug.
Heard on	:	17.03.2026
Judgement delivered on	:	17.03.2026

Jay Sengupta, J. :

1. This is an application praying for quashing of a criminal proceeding being C.R. Case No. 725 of 2023 pending before the learned Judicial Magistrate, 1st Court, Jalpaiguri under Sections 138 and 141 of the Negotiable Instruments Act
2. Affidavit of service filed on behalf of the petitioner submits as follows.
3. Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner had agreed to purchase the land in question from one Jayprakash Bahety. At that time, the petitioner did not have sufficient fund. Therefore, he paid a part

consideration, took possession of the entire land and got a power of attorney executed by the original owner in his name. Thereafter, he entered into an agreement with the present complainant to sell the said property on behalf of Jayprakash Bahety. In fact, he gave possession of the portion of the land in question to the complainant. He was not aware that in the meantime that the power of attorney executed by the original owner was cancelled by him. The petitioner is a victim of circumstance. Now, the present complaint case has been filed by the complainant against the petitioner only on the basis of two cheques that the complainant forced the petitioner to issue by applying coercion. No prima facie case is made out against the petitioner. There is no legally enforceable debt behind the said cheques. A civil suit is pending in this regard. The impugned proceeding is an abuse of the process of Court.

4. Learned counsel appearing on behalf of the complainant/opposite party strongly opposes the prayer for quashing of the proceeding. He submits that after getting a power of attorney from the owner, the accused transferred the possession of the property in question and took money to the tune of Rs.50Lakhs from the complainant for selling the property. But, he could not sell the property. Thereafter, he handed over two cheques for returning the money. The same were dishonoured on the ground that payment was stopped by the drawer. A prima facie case is, thus, clearly made out. Disputed questions of fact regarding use of coercion and the like have to be decided by the Trial Court.

5. It appears that the signatures on the cheques are not disputed. The cheques were issued purportedly in the month of August, 2023. It does not appear that there is any FIR lodged regarding the alleged coercion applied for getting the cheques.

6. It will anyway be a disputed question of fact as to whether such cheques were obtained by use of coercion or not. The Trial Court would be best suited to decide such disputed questions of fact.

7. Otherwise, a prima facie case is clearly made out against the petitioner.
8. Therefore, I do not find any merit in the application for quashing of proceeding.
9. In view of the above, the revisional application is dismissed, however, without any order as to costs.
10. The Trial Court is directed to expedite the proceeding.
11. Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)