

24.04.2026

Item no.30.

Court No.5.

Suman

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

CRR 127 of 2026

**In the matter of : Sri Deb Kishan Lakhotia @ Dev Kishan
Lakhotia and Anr.
.....Petitioners.**

Mr. Nigam Mittal
..for the petitioners

Mr. Rahul Hoare
Mr. Rounak Ghosh
..for the opposite party no.2.

Mr. Nilay Chakraborty, Ld. APP
Mr. Dhiman Sil
..for the State

The present revisional application has been preferred seeking quashing of FIR being Kotwali Police Station Case No. 201 of 2023 dated 23.03.2023 under Sections 188/34 of the Indian Penal Code, corresponding to G.R. Case No. 1369 of 2025, presently pending before the Court of the learned Judicial Magistrate, 1st Court, Jalpaiguri, and all proceedings arising therefrom.

Mr. Mittal, learned advocate appearing for the petitioner, submits that the dispute giving rise to the registration of the present case pertains to the transfer of a parcel of land. He contends that the dispute is, in essence, civil in nature; however, it has been given a criminal colour with an oblique motive to harass the petitioner. He further submits that if the present proceeding is allowed to continue, the same would amount to an abuse of the due process of law.

Mr. Rounak Ghosh, learned advocate appearing for O.P. No. 2, submits that the petitioner violated an order passed in a proceeding under Section 144 of the Code of Criminal Procedure. He contends that there are sufficient materials against the petitioner, and accordingly, the FIR was registered as there was justification for proceeding against him

In response to the Court's query, he submits that two civil suits are pending in between the parties on the self-same issue.

Mr. Chakraborty, learned APP appearing for the State opposes the prayer of the petitioner.

Heard the learned advocates appearing for the respective parties and perused the materials on record.

Admittedly, the power to quash a proceeding is to be exercised sparingly, with circumspection, and in the rarest of rare cases. In *State of Haryana vs. Bhajan Lal*, reported in (1992) Supp (1) SCC 335, the Hon'ble Supreme Court delineated seven categories wherein quashing of proceedings may be justified, though such categories are illustrative and not exhaustive. It was observed therein that where the allegations made in the First Information Report or the complaint, even if taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out a case against the accused, or where the criminal proceeding is manifestly attended with mala fide and/or maliciously instituted with an ulterior motive for wreaking vengeance on the accused or with a view to spite him due to private and personal grudge, the same would warrant interference.

Needless to emphasis, if a dispute is predominantly civil in nature and if it is found that such dispute has been given unwanted

criminal colour with ulterior motive and entire proceeding is tainted with malice, the said proceedings cannot be permitted to be continued.

In the present case, a bare reading of the FIR reveals that there was an oral negotiation between the vendor and the de facto complainant for transfer of the land in question in his favour. Subsequently, the said land was sold to the present petitioner. It remains unclear to the complainant as to how the land, allegedly the subject matter of a dispute, came to be transferred. Further, the complaint does not disclose when the de facto complainant initiated proceedings under Section 144 of the Code of Criminal Procedure. Rather, a reference has been made to a case of the year 2015, and the narrative encompasses events spanning from 2015 to 2022. It is well settled that any order promulgated by a public servant in exercise of powers under Section 144 of the Code of Criminal Procedure can remain in force for a maximum period of 60 days. The present case was registered on 23rd March, 2023. As noted earlier, the de facto complainant himself has admitted that two civil suits are pending in respect of the self-same issue.

In such circumstances, it is evident that the dispute between the de facto complainant and the petitioner, relating to the land in question, is predominantly civil in nature, which has been given an unwarranted criminal colour. Accordingly, in my view, if the present proceeding is allowed to continue, the same would amount to an abuse of the process of the Court and the due process of law

Accordingly, the FIR being Kotwali Police Station Case No. 201 of 2023 dated 23.03.2023 under Sections 188/34 of the Indian Penal Code, corresponding to G.R. Case No. 1369 of 2025 pending before the

learned Judicial Magistrate, 1st Court, Jalpaiguri, and all proceedings arising therefrom, stand quashed.

With this observation and order, the present application being **CRR 127 of 2026**, thus, stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Partha Sarathi Chatterjee, J.)