

19.05.2026
SL No.34
Court No.5
S.Gayen

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL REVISIONAL JURISDICTION**

CRR 406 of 2025

In the matter of: **Mohijuli Tea Co. Pvt. Ltd. & Ors.**

...Petitioners

Mr. Ajay Singhal
Ms. Heena Yasmin Shaikh

...for the Petitioners

1. The petitioners have filed the present revisional application under Section 528 of the Bharatiya Nagarik Suraksha Snahita, 2023 praying for quashing of the proceeding of CR Case No. 856 of 2023 (*Garden Stores & Chemical vs. Mohijuli Tea Co. Pvt. Ltd.*) under Sections 406/420/120B of the Indian Penal Code pending before the Court of learned Judicial Magistrate, 4th Court, Siliguri, Darjeeling.
2. Learned counsel appearing for the petitioners submits that the opposite party has filed a complaint before the learned Magistrate by giving the colour of criminal case though as per the complaint, it categorically reveals that the dispute between the petitioners and the opposite party is civil in nature and the claim made in the said complaint is a money claim. Learned counsel for the petitioners has drawn the attention of this Court to the complaint filed by the opposite party on the basis of which the learned Magistrate has taken cognizance for the alleged offences. He submits that it is specific case of the complainant that there are transactions between both the companies for a sum of Rs.

29,40,357/- and as per the demand raised by the opposite party from time to time, the petitioners have paid certain amount keeping the balance amount of Rs. 11,61,571/-. It is further alleged in the complaint that in spite of several requests made by the opposite party to the petitioners through emails, the petitioners failed to pay the balance amount and the petitioners have committed an offence under Section 420/406/120B of the Indian Penal Code.

3. Learned counsel for the petitioners further submits that on receipt of the complaint filed by the opposite party, the learned Magistrate has called for the report from the police authority and the police authority has submitted the report. From the report also it reveals that there is a business transaction between the petitioners and the opposite party/company but the petitioners have not paid the balance amount of Rs. 11,61,571/-. Learned counsel for the petitioners submits that on receipt of the said report, the learned Magistrate has taken the cognizance by an order No.6 dated 10.01.2025.
4. He submits that if the complaint filed by the opposite party and the report filed by the police authority is taken into consideration, it is categorically reveals that the dispute between the petitioners and the opposite party/company is a money dispute and by way of this case, the opposite party intended to recover the alleged balance amount from the petitioners by initiating the criminal proceeding.

5. Learned counsel appearing for the petitioners has relied upon the judgment in the matter of ***Dinesh Gupta vs. State of Uttar Pradesh & Anr.*** reported in ***(2024) 11 SCC 758*** and submits that it is settled law that the nature of the civil case cannot be culminated into the criminal colour.
6. This Court finds that in spite of service of notice none appears on behalf of the opposite party.
7. Heard the learned counsel for the petitioners. Perused the complaint and the report of the police authority and the order passed by the learned Magistrate wherein the cognizance has been taken by the learned Magistrate against the petitioners.
8. In the complaint, it is categorically mentioned that there is a business transaction between the petitioners and the opposite party/company. There was a due of Rs. 29,41,357/-. After the demand made by the opposite party, the petitioners have paid certain amount by keeping the balance amount of Rs. 11,61,571/-. The opposite party has made several requests to the petitioners including through email but the petitioners have not paid the balance amount to the opposite party. Accordingly, the opposite party has filed the present compliant on the allegation that the petitioners have cheated the opposite party and have misappropriated the amount of the opposite party.
9. The learned Magistrate has called for the report from the police authority before taking cognizance. The police authority has submitted the report, which reads as follows:-

“With benign submission as per endorsement of I/C Siliguri PS, I, SI Biplab Barman of Siliguri PS enquired the matter and beg to state before your kind honour that the complainant ‘Garden Stores & Chemicals’ is a private limited company having its registered office situated at Bidhan Market Road, PS-Siliguri, Dist-Darjeeling being represented by one of its director Kanak Durgar, S/O- Lt Ganeshmal Durgar of Don Bosco School Road, PS-Bhaktinagar, Dist-Jalpaiguri. The accused party named ‘Mohijuli Tea Co. Pvt. Ltd’ a private ltd company of Guwahati, Assam being represented by its directors named Dr. Nilufar Rahman and Nader Mohandesi and ‘Mahaluxmi Tea State’ a unit of Mohijulk Tea Co. pvt. Ltd were having business transactions since long and the complainant supplied products from its company to the accused party of a total amount of Rs.29,40,357/- (as per statement of the complainant) on several occasions. During enquiry, as per statement of the complainant, it came to know that the accused party made payments partly to the complainant company on several dates but till date the total outstanding debt is Rs. 11,61,571/-. Hence, the accused person is still liable to pay a sum of Rs. 11,61,571/- to the complainant company. It is pertinent to mention that the complainant company on several times send email to the accused persons for the payment but the accused persons ignored the same.”

10. The report also clearly reveals that out of total amount of Rs. 29,40,357/-, the petitioners have paid certain amount leaving the balance amount of Rs. 11,61,571/-. The learned Magistrate on the basis of the said report has taken the cognizance by an order No.6 dated 10.01.2025. In the impugned order, the learned

Magistrate has recorded that perused the entire material on record as well as the report and cognizance is taken. The learned Magistrate has not recorded that under which section the learned Magistrate has taken the cognizance whether it is 420 or 406 or any other section. The learned Magistrate has passed an order by taking cognizance in a routine manner.

11. This Court fails to appreciate that on what document the learned Magistrate has taken into consideration that the learned Magistrate has come to the conclusion that the cognizance is to be taken. From the report of the police authority, on the basis of which the learned Magistrate has taken the cognizance, categorically established that there is a dispute between the petitioners and the opposite party is money claim. The money claim cannot be converted to a criminal case.
12. In the case of Dinesh Gupta (supra) the Hon'ble Supreme Court has categorically held that the matter which involves the financial transactions and agreement clearly places it in the realm of civil and commercial law cannot be culminated into the criminal case. In the present case also this Court finds that the only allegation of the opposite party that there is a business transaction and there is a due which is to be paid by the petitioners to the opposite party but the petitioners have not paid the dues and the opposite party has made a complaint.
13. Considering the above, this Court finds that the complaint filed by the opposite party is civil in nature which also corroborates the report of the police authority. This Court also finds that while

taking the cognizance by the learned Magistrate by an order No.6 dated 10.01.2025, the learned Magistrate has not specified under which section the cognizance has taken against the petitioners.

14. In view of the above, the criminal proceeding initiated by the opposite party against the petitioners being CR Case No. 856 of 2023 (*Garden Stores & Chemical vs. Mohijuli Tea Co. Pvt. Ltd.*) pending before the Court of learned Judicial Magistrate, 4th Court, Siliguri, Darjeeling including the order No.6 dated 10.01.2025 is set aside and quashed.

15. Accordingly, **CRR 406 of 2025** is **disposed of**.

16. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

17. Urgent Photostat certified copy, if applied for, be given to the parties upon compliance with all formalities.

(Krishna Rao, J.)