

IN THE HIGH COURT AT CALCUTTA

CIRCUIT BENCH AT JALPAIGURI

(Criminal Revisional Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 351 of 2024

Arup Raha

vs.

The State of West Bengal & Anr.

For the Petitioner : Mr. Arnab Saha.

For the O.P. No. 2 : Mr. Sourav Ganguly,
Ms. Rishita Chakraborty.

For the State : Mr. Avrojoyti Das, ld. APP,
Mr. Gobinda Ghosh.

Judgment reserved on : 11.06.2026

Judgment delivered on : 17.06.2026

Shampa Dutt (Paul), J.:

1. The revisional application has been preferred praying for quashing of the proceeding being General Register Case No. 437 of 2023 arising out of Alipurduar P.S. Case No. 64 of 2023 dated 04.03.2023 under Sections 341/323/354/379/506 of the Indian Penal Code, 1860,

pending before the learned Additional Chief Judicial Magistrate at Alipurduar.

2. The allegations as made in the written complaint in the present case are as follows:-

“That on 21.01.2022 I loaned a sum of Rs.4,70,000/- (Four lakh seventy thousand only) to the accused through cash upon execution of an agreement on necessity of the accused and against two security cheques being nos. 38967 and 386959 on condition to return the same by six months. Accordingly, on 03.03.2023, at about 11:00 am when I and my wife were present at the house of the accused and demanded the loan amount to the accused, the accused person used slang at me but while I asked him to calm down then the accused assaulted us, pushed my wife to downstairs and assaulted us, and tried to outrage the modesty of my wife and tried to kill me by use of wooden stick. The accused also snatched one gold chain of approximately 18 grams, from my wife’s neck and defiled the dignity of my wife.”

3. The petitioner’s case is that the dispute between the parties is civil in nature and the allegations of wrongful restraint, hurt and theft are without any basis. It is thus submitted that all the allegations are baseless and the petitioner has been implicated falsely in respect of the criminal offences to settle present disputes.
4. The State has placed the case diary, wherein it appears that the two cheques as allegedly issued by the petitioner herein was seized by the police. The two cheques are undated. There has been no recovery in

the present case of any stolen articles as alleged and the case has already ended in a charge-sheet.

5. Learned counsel for the de facto complainant has vehemently opposed the prayer for quashing and has placed certified copies of documents in G.R. Case No. 455 of 2023 relating to Alipurduar P.S. Case No. 65 of 2023 under Sections 341/323/354/506 of IPC which has been filed by the wife of the petitioner herein against the complainant in the present case. The said case has also ended in a charge-sheet.
6. Considering the materials on record, it appears that that there has been some agreement between the parties relating to some lending of money. Admittedly, the undated cheques were not placed for encashment by the complainant in the present case and, as such, they have not been dishonoured till date. In case of dishonour, the complainant has his remedy under the Negotiable Instruments Act.
7. From the materials in the case diary, it appears that none of the allegations made by the complainant herein have been substantiated by any materials collected during the investigation.
8. In ***Naresh Kumar & Anr. Vs The State of Karnataka & Anr., in Criminal Appeal No. of 2024 (arising out of SLP (Crl.) No. 1570 of 2021), decided on March 12, 2024***, the Supreme Court held:-

“5. Under these circumstances, we are of the considered view that this is a case where the inherent powers should have been exercised by the High Court under Section 482 of the Criminal Procedure Code as the powers are there to stop the abuse of the process and to secure the ends of justice.

6. In the case of **Paramjeet Batra v. State of Uttarakhand (2013) 11 SCC 673**, this Court recognized that although the inherent powers of a High Court under Section 482 of the Code of Criminal Procedure should be exercised sparingly, yet the High Court must not hesitate in quashing such criminal proceedings which are essentially of a civil nature. This is what was held:

“12. While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. **A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process of the court.**”

(emphasis supplied)

Relying upon the decision in **Paramjeet Batra** (supra), this Court in **Randheer Singh v. State of U.P. (2021) 14 SCC 626**, observed that criminal proceedings cannot be taken recourse to as a weapon of harassment. In **Usha Chakraborty & Anr. v. State of West Bengal & Anr. 2023 SCC OnLine SC 90**, relying upon **Paramjeet Batra** (supra) it was again held that where a dispute which is essentially of a civil nature, is given a cloak of a criminal offence, then such disputes can be quashed, by exercising the inherent powers under Section 482 of the Code of Criminal Procedure.

7. Essentially, the present dispute between the parties relates to a breach of contract. A mere breach of contract, by one of the parties, would not attract prosecution for criminal offence in every case, as held by this Court in **Sarabjit Kaur v. State of Punjab and Anr. (2023) 5 SCC 360**. Similarly, dealing with the distinction between the offence of cheating and a mere breach of contractual obligations, this Court, in **Vesa Holdings (P) Ltd. v. State of Kerala, (2015)**

8 SCC 293, has held that every breach of contract would not give rise to the offence of cheating, and it is required to be shown that the accused had fraudulent or dishonest intention at the time of making the promise.”

9. In **Anukul Singh vs State of Uttar Pradesh and Anr., in Criminal Appeal No. 4250 of 2025 (arising out of SLP (Crl.) No. 2682 of 2020)**, decided on **September 24, 2025**, the Supreme Court held:-

“11. Before advertng to the facts of the present case, it is necessary to recapitulate the settled legal principles governing the exercise of inherent powers under Section 482 Cr.P.C. It is well established that though the High Court possesses wide and plenary inherent jurisdiction, such power is not unbridled or unlimited, but circumscribed by self-imposed restraints evolved through judicial pronouncements.

11.1. This Court in **State of Haryana v. Bhajan Lal**¹⁰, at paragraph 102, laid down illustrative categories where quashing of proceedings is justified. These are:

“(1) Where the allegations made in the first information report or the complaint, even if they are 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.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just

conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or, where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

The categories in **Bhajan Lal** are illustrative and not exhaustive, but they provide guiding principles to balance two competing considerations – (a) preventing abuse of process of law, and (b) ensuring that criminal proceedings are not stifled at the threshold on disputed questions of fact.

11.2. Equally, this Court has consistently cautioned that the High Court, while exercising jurisdiction under Section 482 Cr.P.C., cannot embark upon a “minitrial” or weigh the sufficiency of evidence, which falls within the domain of the trial Court. The scope of enquiry is confined to whether, on a plain reading of the FIR / complaint and accompanying material, the ingredients of the alleged offence are disclosed. [See: **Rajiv Thapar v. Madal Lal Kapoor 11**, **HMT Watches v. Abida 12**, and **Rathish Babu Unnikrishnan v. the State (Govt. of NCT of Delhi) and others 13**].

11.3. In **Md. Allauddin Khan v. State of Bihar 14**, it was reiterated that appreciation of contradictions or inconsistencies in witness statements lies within the exclusive domain of the trial Court and not in proceedings under Section 482 Cr.P.C. Similarly, in **CBI v. Aryan Singh 15**, it was emphasized that the High Court had exceeded its jurisdiction by examining the merits of the prosecution’s case and holding that charges were not proved, which is a matter strictly for trial.

11.4. Nevertheless, an exception has been recognized where the defence relies upon unimpeachable, incontrovertible evidence of sterling quality – such as documents of undisputed authenticity – which ex facie demonstrate that continuation of criminal proceedings would be unjust and oppressive. This principle was recognized in **Suryalakshmi Cotton**

Mills Ltd v. Rajvir Industries Ltd¹⁶, and followed in subsequent decisions.

11.5. Thus, the cumulative principles that emerge are: while the jurisdiction under Section 482 Cr.P.C is extraordinary and must be exercised sparingly, it is the duty of the High Court to intervene where continuation of criminal proceedings would amount to an abuse of process of law, or where the dispute is purely of a civil nature and criminal colour has been artificially given to it. Conversely, where disputed questions of fact arise requiring adjudication, the matter must ordinarily proceed to trial.

17. This Court has, in a long line of decisions, deprecated the tendency to convert civil disputes into criminal proceedings. In **Indian Oil Corporation v. M/s. NEPC India Ltd. 17**, it was held that criminal law cannot be used as a tool to settle scores in commercial or contractual matters, and that such misuse amounts to abuse of process. The following paragraphs from the decision are apposite:

“9. The principles, relevant to our purpose are:

(i) A complaint can be quashed where the allegations made in the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out the case alleged against the accused. For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with malafides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so

bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out: (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceedings are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.

10. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable break down of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged.”

18. Similarly, in **Inder Mohan Goswami and another v. State of Uttaranchal and others**¹⁸, it was emphasized that criminal prosecution must not be permitted as an instrument of harassment or private vendetta. In **Ganga Dhar Kalita v. State of Assam**¹⁹, this Court again reiterated that criminal complaints in respect of property disputes of civil nature, filed solely to harass the accused or to exert pressure in civil litigation, constitute an abuse of process.

19. Most recently, in **Shailesh Kumar Singh @ Shailesh R. Singh v. State of Uttar Pradesh and others**²⁰, this Court disapproved the practice of using criminal proceedings as a substitute for civil remedies, observing that money recovery cannot be enforced through criminal prosecution where the dispute is essentially civil. The Court cautioned High Courts not to direct settlements in such matters but to

apply the settled principles in Bhajan Lal. The following paragraphs are relevant in this context:

“9. What we have been able to understand is that there is an oral agreement between the parties. The Respondent No.4 might have parted with some money in accordance with the oral agreement and it may be that the appellant – herein owes a particular amount to be paid to the Respondent No.4. However, the question is whether prima facie any offence of cheating could be said to have been committed by the appellant.

10. How many times the High Courts are to be reminded that to constitute an offence of cheating, there has to be something more than prima facie on record to indicate that the intention of the accused was to cheat the complainant right from the inception. The plain reading of the FIR does not disclose any element of criminality.

11. The entire case is squarely covered by a recent pronouncement of this Court in the case of “Delhi Race Club (1940) Limited vs. State of Uttar Pradesh” reported in (2024) 10 SCC 690. In the said decision, the entire law as to what constitutes cheating and criminal breach of trust respectively has been exhaustively explained. It appears that this very decision was relied upon by the learned counsel appearing for the petitioner before the High Court. However, instead of looking into the matter on its own merits, the High Court thought fit to direct the petitioner to go for mediation and that too by making payment of Rs. 25,00,000/- to the 4th respondent as a condition precedent. We fail to understand why the High Court should undertake such exercise. The High Court may either allow the petition saying that no offence is disclosed or may reject the petition saying that no case for quashing is made out. Why should the High Court make an attempt to help the complainant to recover the amount due and payable by the accused. It is for the Civil Court or Commercial Court as the case may be to look into in a suit that may be filed for recovery of money or in any other proceedings, be it under the Arbitration Act, 1996 or under the provisions of the IB Code, 2016.

12. Why the High Court was not able to understand that the entire dispute between the parties is of a civil nature.

13. We also enquired with the learned counsel appearing for the Respondent No.4 whether his client has filed any civil suit or has initiated any other

proceedings for recovery of the money. It appears that no civil suit has been filed for recovery of money till this date. Money cannot be recovered, more particularly, in a civil dispute between the parties by filing a First Information Report and seeking the help of the Police. This amounts to abuse of the process of law.

14. We could have said many things but we refrain from observing anything further. If the Respondent No.4 has to recover a particular amount, he may file a civil suit or seek any other appropriate remedy available to him in law. He cannot be permitted to take recourse of criminal proceedings.

15. We are quite disturbed by the manner in which the High Court has passed the impugned order. The High Court first directed the appellant to pay Rs.25,00,000/- to the Respondent No.4 and thereafter directed him to appear before the Mediation and Conciliation Centre for the purpose of settlement. That's not what is expected of a High Court to do in a Writ Petition filed under Article 226 of the Constitution or a miscellaneous application filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR or any other criminal proceedings. What is expected of the High Court is to look into the averments and the allegations levelled in the FIR along with the other material on record, if any. The High Court seems to have forgotten the wellsettled principles as enunciated in the decision of this Court in the "State of Haryana & Others vs. Bhajan Lal & Others" Reported in 1992 Supp.(1) SCC 335."

10. The dispute in the present case is clearly a civil dispute and in

such cases of alleged breach of agreement, it has to be prima facie shown that there was/is criminal intent present.

11. The materials on record, herein including the case diary do not prima facie show presence of the ingredients required to constitute the offences alleged against the petitioners herein with absence of criminal intent and as such the proceeding in this case is thus liable to be quashed in the interest of Justice, to prevent an abuse of the process of law.

- 12. The revisional application being CRR 351 of 2024 is allowed.**
- 13.** The proceedings being General Register Case No. 437 of 2023, arising out of Alipurduar P.S. Case No. 64 of 2023 dated 04.03.2023 under Sections 341/323/354/379/506 of the Indian Penal Code, 1860, pending before the learned Additional Chief Judicial Magistrate at Alipurduar, **is hereby quashed in respect of the petitioner namely Arup Raha.**
- 14.** All connected applications, if any, stand disposed of.
- 15.** Interim order, if any, stands vacated.
- 16.** Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)