

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
(Criminal Revisional Jurisdiction)
APPELLATE SIDE**

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 507 of 2025

Mrs. Mitua Roy (Sanyal) & Anr.

Vs.

The State of West Bengal & Anr.

With

CRR 260 of 2025

Dr. Atulana Roy

Vs.

The State of West Bengal & Anr.

For the Petitioners : Mr. Amalesh Roy, Sr. Advocate
Ms. Matan Chakraborty.

For the State : Mr. Avrojoyoti Das, Ld . APP
Mr. Debabrata Rai.

For the Opposite Party No. 2 : Mr. Sudip Guha,
Ms. Sayantani Das,
Ms. Ankita Nag.

Judgment reserved on : 17.06.2026

Judgment delivered on : 17.06.2026

Shampa Dutt (Paul), J.:

1. The present revisional application has been preferred praying for quashing of the entire criminal proceedings including the charge sheet/final report, filed in connection with Pradhan Nagar Police Station Case No. 909 of 2022 dated 06.11.2022 under Sections 406/420 of the IPC corresponding to G. R. case No. 4890 of 2022 pending before the Learned Judicial Magistrate, 3rd Court at Siliguri, District – Darjeeling.
2. The case initiated in the present case by the opposite party no.2 is based on the allegation as follows:-

"To avoid any litigation, I did not take any steps against Dr. Atulana Roy, but on 22.10.2022 at about 6.00 p.m. Dr. Atulana Roy came at the Clinic with her mother Mrs. Mitua Roy (Sanyal), brother Mr. Nayan Roy, two stffs viz. 1. Dr. Anita Gurung, 2. Miss Pema and some unknown persons and abuse me with filthy languages and the brother and mother of Dr. Atulana Roy above named tried to assault me and my wife who was present at the relevant point of time and forcefully took all the equipments from the Clinic, except the Dental Chair and one Wall mount Dental X-Ray machine (the above two things are still lying at the Clinic)."

3. On hearing the learned counsels for the parties and on perusal of the materials in the case diary, as placed by the learned counsel for the State, it appears that the complainant entered into a **partnership agreement** with Dr. Atulana Roy in the name of North Bengal Dental Solutions which was executed on 01.06.2022, in which the ratio of the profit and loss of the said partnership business was 30% (Tapan Mazumder): 70% (Dr. Atulana Roy) and Dr. Atulana Roy cheated Tapan Mazumder by not giving the percentage of the partnership business, although Tapan Mazumder caused and served a legal notice dated 10.11.2022 upon Dr. Atulana Ray and asked her to produce the books of accounts of the partnership business, to pay the profits as per ratio of the partnership and pay Rs. 34,443/- in total which was incurred by Tapan Mazumder as expenses for the partnership business.
4. Charge sheet in the present case has been filed wherein the brief facts as stated is as follows:-

*"The brief fact of the case is brief is over he written complainant of Sri Tapan Majumdar (9434106675) s/o Lt. Satyendra Kumar Mazumdar of Nivedita Road W/N 02 PO+PS Pradhannagar Dist Darjeeling to the effect that the complainant and one Dr. Atulana Roy of flat No. B-204, Mayfair Crown, PS Bhaktinagar, Dist Jalpaiguri **was the business partner** of North Bengal Dental Solutions. Last few days the complainant came to know that his partner*

namely Atulana Roy cheat him by **not giving the percentage which he deserved.** His business partner Dr. Atulana on 22.10.22 at about 18.00 hrs. came to the dental clinic with her mother namely Mrs. Mitua Roy, brother Nayan Roy and two staff namely Anita Gurung and Pema and abused in filthy language and also tried to assault him”.

5. On hearing the learned counsels for the petitioner and on perusal of the materials on record, it appears that the dispute in this case relates to the partnership business of the parties herein which prima facie is civil in nature.

6. 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.”

7. 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. Abida12**, and **Rathish Babu Unnikrishnan v. the State (Govt. of NCT of Delhi) and others13**].

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 Singh15** , 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."

- 8. As the dispute in the present case is clearly a civil dispute,** in such cases, it has to be prima facie shown that there was/is criminal intent present.
- 9.** 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.

10. CRR 507 of 2025 and CRR 260 of 2025 are allowed.

11. The proceedings being Pradhan Nagar Police Station Case No. 909 of 2022 dated 06.11.2022 under Sections 406/420 of the IPC corresponding to G. R. case No. 4890 of 2022 pending before the Learned Judicial Magistrate, 3rd Court at Siliguri, District – Darjeeling, **is hereby quashed in respect of the petitioners namely Mitua Roy (Sanyal), Nayan Roy and Atulana Roy.**

12. All connected applications, if any, stand disposed of.

13. Interim order, if any, stands vacated.

14. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)