

29.06.2026
Serial no. 71
Court No. 5
Sayan

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Criminal Revisional Jurisdiction

CRR 333 of 2023
With
CRR 334 of 2023
With
CRR 336 of 2023

M/s. Blue Orchid @ Blue Orchid Restaurant and Another
Vs.
The State of West Bengal

Mr. Satarudriya Mukherjee
Ms. Tannu Agarwal

... .. For the Petitioner

Mr. Avrajyoti Das, Ld. APP
Mr. Atul Dong
Mr. Govinda Ghosh

... ...For the State

- 1.** CRR 333 of 2023, CRR 334 of 2023 and CRR 336 of 2023 are filed by the same petitioner with similar kind of grievance. Hence, all the three criminal revisions as above are taken up together for hearing and order.
- 2.** A complaint dated August 08, 2019 was filed in the Court by the Inspector of the Minimum Wages Act and Shops and Establishments Act, 1963 and West Bengal Rules, 1964 thereunder at Jalpaiguri, alleging infringement by the petitioner of Rule 12(1) and Section 18 read with Rule 53 of the Shops and Establishments Act and Rules; Rules 30 and 48 of the Shops and Establishments Rules; and infringement of Section 16(1), Rule 4 and Section 17(1) of the Shops and Establishments Act, 1963 respectively, by the petitioner concerning his establishment.

3. The petitioner's allegation is that, the Magistrate has taken cognizance vide his order dated October 01, 2019 in respect of the separate complaints as stated above, under Section 22/22A of the Shops and Establishments Act, 1963.
4. Mr. Satarudriya Mukherjee, learned advocate appearing for the petitioner has submitted with reference to the Act of 1963 that, there is no provision as Section 22A provided in the Shops and Establishments Act, 1963. Therefore, according to him, the Magistrate has erroneously taken cognizance of the case under such provision of law which is not existent.
5. Mr. Avrojoyti Das, learned APP has appeared for the State.
6. It is noticeable that, in CR 449 of 2019 which gave rise to CRR 333 of 2023, the CJM, Jalpaiguri passed order dated October 01, 2019 taking cognizance of the offence in the following manner, "*A complaint under Section 22/22A of the Shops and Establishments Act, 1963 is filed this day by Assistant Labour Commissioner, Minimum Wages Act, against M/s. Blue Orchid.*"
7. Similarly, in CR 448 of 2019 which gave rise to CRR 336 of 2023, the CJM, Jalpaiguri takes cognizance of offence vide order dated October 01, 2019 in the following words, "*A complaint under Section 22/22A of the Payment of Wages Act is filed this day by Assistant Labour Commissioner under Payment of Wages Act against M/s. Blue Orchid.*"
8. Similarly, in CR 450 of 2019 which has given rise to CRR 334 of 2023, the CJM, Jalpaiguri has taken cognizance of offence vide his order dated October 01, 2019 as follows, "*A complaint under Section 22/22A of the Payment of Wages Act is filed this day by Assistant Labour Commissioner under Payment of Wages Act against M/s. Blue Orchid.*"

- 9.** It is pertinent to note that the Shops and Establishments Act 1963, does not include any provision as ‘Section 22A’. Taking of cognizance by the Magistrate under section 22A of the Shops and Establishments Act 1963, in CR 449 of 2019, by his order dated October 1, 2019, is therefore erroneous.
- 10.** Also that though the Payment of Wages Act 1936, incorporates both sections 22 and 22A, neither of those are provisions enabling the Magistrate to take cognizance of an offence under the said Act nor is a penal provision by itself. Let both the provisions be quoted bellow:

Section 22 -

“22. Bar of Suits.—No Court shall entertain any suit for the recovery of wages or of any deduction from wages in so far as the sum so claimed—

(a) forms the subject of an application under section 15 which has been presented by the plaintiff and which is pending before the authority appointed under that section or of an appeal under section 17; or

(b) has formed the subject of a direction under section 15 in favour of the plaintiff; or

(c) has been adjudged, in any proceeding under section 15, not to be owed to the plaintiff; or

(d) could have been recovered by an application under section 15.”

Section 22A –

“22A. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government for anything which is in good faith done or intended to be done under this Act.

Therefore, taking cognizance by the Magistrate in the cases No. CR 448 of 2019 and CR 450 of 2019, is erroneous and unsustainable.”

- 11.** On the basis of the discussion as made above, it is therefore found that all the three criminal revisions filed by the petitioner are to succeed.

- 12.** Hence, criminal revisions No. CRR 333 of 2023, CRR 334 of 2023, and CRR 336 of 2023 are allowed.
- 13.** The proceedings being No. CR 448 of 2019, CR 449 of 2019 and CR 450 of 2019 are quashed and set aside.
- 14.** The order of the learned CJM, Jalpaiguri dated October 01, 2019 in all the three matters, is hereby set aside.
- 15.** Urgent certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)