IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 5367 of 2024

Anamitra Acharya
Vs
The State of West Bengal & Anr.

For the Petitioner	:	Mr. Ayan Bhattacharjee, Sr. Adv. Mr. Shounak Mondal.
For the State	:	Mr. Pritam Roy, Mr. Avishek Bhandari.
For the Opposite Party No.2	:	Mr. Dipanjan Dutt, Mr. Surojit Saha.
Judgment reserved on	:	23.09.2026
Judgment delivered on	:	01.10.2026

Shampa Dutt (Paul), J.:

1. The criminal revisional application has been preferred praying for quashing of the proceedings of G. R. (S) No. 230 of 2024 arising out of Hare Street Police Station Case No. 70 of 2024 dated February 28, 2024 under Sections 420/406/467/468/471/120B of the Indian Penal Code, 1860 pending before the Court of the Learned Chief Judicial Magistrate, Calcutta.

2. The husband of the instant petitioner, namely Tapan Kumar Acharya (since deceased), happened to operate a construction business in the form of sole proprietorship under the name and style of "T.K. Construction". The instant petitioner had no role to play whatsoever in the business of her deceased husband, and also was not involved in or took any interest in the said business in any manner whatsoever.

3. On March 10, 2023, the husband of the instant petitioner expired on account of brain death. Immediately after the demise, the instant petitioner took the noble decision of donating the pair of kidneys of her deceased husband, and stood by such decision to materialize the same.

4. It was only during the condolence gathering of her deceased husband, that the instant petitioner got acquainted with the opposite party no.2 for the first time. It was during such condolence gathering that the opposite party no.2 introduced himself to the instant petitioner, and made disclosures regarding the purported inter se transactions between the opposite party no.2 and the deceased husband of the instant petitioner. The opposite party no.2 further went on to project that the deceased husband of the petitioner happened to owe a portion of a purported amount which was extended as credit by the opposite party no.2 to the deceased husband of the petitioner during his lifetime. **The opposite party no.2 also disclosed his intention to buy one of the residential properties of the deceased husband of the petitioner with the balance amount.**

5. The allegations made in the application under Section 156(3), Cr. P.C. which led to the registration of the present police case are as follows:-

"That the complainant was allegedly introduced to the petitioner and her husband through a common friend in the year 2013-14 and the complainant had a friendly relationship with the husband of the petitioner. It is the case of the complainant that the petitioner and her deceased husband had introduced the complainant to the accused no.2 also who is the brother of the petitioner and the brother of the deceased husband of the petitioner".

6. The specific allegations are as follows:-

"That sometime in April, 2021 the deceased had approached the complainant at his work place and informed him that he was in dire need of financial assistance for certain personal requirements. At the outset, when the deceased came up with such a request to the complainant, the complainant was hesitant but later on the accused no.1 along with her husband, had approached the complainant and made numerous false assurances regarding repayment of the monetary assistance sought by them. The accused persons as also the deceased had promised the complainant that not only the principal amount would be repaid back to him but also a certain compensatory amount would be paid additionally to him as an interest to the principal amount. The accused persons further represented that they were prepared to hand over a Deed of their flat which is situated at FD-294,

Sector III, Salt Lake, Kolkata. 700106. The accused no. 1 went to the extent of considering the complainant as her elder brother and requested him to help her in their difficult times."

7. On the very next day the accused persons had paid a visit to the complainant along with the Deed of the aforesaid flat. The accused persons had canvassed that they considered the complainant as their own and as such, they were not willing to go to any bank. **On scrutinizing the Deed,** the complainant was apprised of the fact that the said Deed was not registered in the name of the deceased or in the name of the accused persons. On questioning regarding such anomaly, the accused no. 1 had stated that the said Deed shall be registered in no time and soon after the registration is completed, they would hand over the same to the complainant.

8. The complainant in good faith and with intention of helping the accused persons as also the deceased, had decided to part away with a sum of Rs. 60,00,000/-.The deceased had requested the complainant to remit the said amount to the bank account of his proprietary concern as also to his personal bank account. The accused persons had promised to repay the said amount within March, 2023 along with a compensatory amount which would be payable on a monthly basis.

9. That sometime in the end of November, 2021 the deceased had visited the office of the complainant and handed him over a photocopy of the Deed of the aforesaid property along with a building plan and a letter issued by the Land Manager, Bidhannagar dated 26.10.2021. Apart

from the said documents, photostat copies of PAN and Aadhar Card of accused no. 1, Certificate of Enlistment and E-Receipt, License Department, Kolkata Municipal Corporation and a photocopy of a Registration Certificate (Form GST REG – 06) were also handed over.

10. After handing over such documents the deceased had once again sought for a financial assistance of Rs. 5 lakhs from the complainant and he gave an Account No. being maintained with HDFC Bank, Salt Lake branch bearing no. 00181000223524.

11. In spite of several requests the accused persons did not pay a single farthing to the complainant and on each and every occasion, had sought for further time to make the payments to the complainant. Sometimes in April, 2022 the accused persons had provided with two Photostat copies of letters issued by the Joint Municipal Commissioner, Bidhannagar Municipal Corporation dated 31.03.2022.

12. It has been further stated by the complainant that since October, 2022 when the husband of the petitioner expired and after the death of her husband the complainant allegedly approached the petitioner for repayment when the petitioner allegedly assured that once her property was sold, he would return the money. **It is further stated that prior to filing of the complaint, the complainant came to know that the petitioner sold her property at Salt Lake and after getting the news, he was totally shocked and proceeded to file the complaint.**

13. The State has placed the case diary wherefrom it appears from the case diary that the investigation revealed that the account 251969001953 belonged to T. K. Construction wherein the FIR named accused

Anamitra Acharya is the nominee and wherein the complainant of the case has deposited Rs.27 lakhs, and on multiple cash withdrawals, the account was closed at present. It is evident that the accused has withdrawn the entire money present in the said account mainly by withdrawing the cash money through ATM and transferring to multiple places. The withdrawal count of the said account is 336 and the deposit count is 38. The total withdrawal amount is ₹ 1,43,24,061/- and the deposit amount is the same.

14. The account in question i.e., 00181000223524 that belongs to the FIR named accused Anamitra Acharya has deposits from another account of Indian Bank belonging to TK Constructions and also from her husband and the said account also shows multiple withdrawal by the FIR named accused person.

15. The account of deceased Tapan Kumar Acharya also shows multiple case withdrawals through ATM and transferring to multiple places. The withdrawal count of the said account is 74 and the deposit count is 37. The total withdrawal mount is Rs.31,88,723/- and the deposit amount is the same.

16. It appears from the materials on record including the petition of complaint under Section 156(3) that prima facie the complainant had allegedly paid a sum of Rs.60 lakhs allegedly to the husband of the petitioner.

17. From the statements made in the petition of complaint it appears that **prima facie the complainant was interested in purchasing the property at Salt Lake which belonged to the petitioner and her**

husband. The petition of complaint has been made after the death of the petitioner's husband when the complainant got the information that the property at Salt Lake had been sold. Though the complainant has shown bank transaction for transfer of the said amount, there are no documents like agreement receipts or any memorandum of understanding etc. to show prima facie as to why the said amount had been handed over to the petitioner and her husband. The reasons for such loan is not clear and the Court can only presume considering the documents referred to, that there was something to do with the transfer of the property at Salt Lake. **It is when the said property was sold to a third party, that the complainant being aggrieved has filed the criminal case.**

18. On perusal of the report submitted by the Officer-in-charge, Hare Street Police Station, it appears that the money transactions referred to by the Investigating Officer relate to the partnership business which the petitioner's husband admittedly had. **The petitioner herein was not a partner in the said business but was a nominee of her husband and it is in accordance with law that the amount that stood in the account was transferred in her name after the death of her husband. There is no prima facie illegality in such transfer.**

19. The transfer of money, as stated by the Investigating Agency in respect of the business of the petitioner's husband, is in no way connected with the amount allegedly come to the petitioner's husband from the complainant, as to why the said amount was given. **There is nothing in writing** and it is only the statement of the complainant on the basis

of which such a criminal case has been registered. The complainant's relief thus lies before the Civil Court and in the present case this Court finds no criminality involved in the conduct of the petitioner herein.

20. 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.*
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> ***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:*
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> *"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."***
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> *(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.*
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> ***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."*

21. 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 adverting 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.*
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> ***11.1.*** *This Court in* ***State of Haryana v. Bhajan Lal10*** *, at paragraph 102, laid down illustrative categories where quashing of proceedings is justified. These are:*
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> *"(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 though criminal prosecution should be deprecated and discouraged."

18. *Similarly, in* ***Inder Mohan Goswami and another v. State of Uttaranchal and others18*** *, 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 Assam19*** *, 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.""

22. In ***Delhi Race Club (1940) Limited and Ors. vs State of Uttar Pradesb & Anr., (2024) 10 SCC 690,*** wherein the Supreme Court held:-

"38. *In our view, the plain reading of the complaint fails to spell out any of the aforesaid ingredients noted above. We may only say, with a view to clear a serious misconception of law in the mind of the police as well as the courts below, that if it is a case of the complainant that offence of criminal*

> *breach of trust as defined under Section 405IPC, punishable under Section 406IPC, is committed by the accused, then in the same breath it cannot be said that the accused has also committed the offence of cheating as defined and explained in Section 415IPC, punishable under Section 420IPC."*

23. **From the materials on record including the case diary it appears that the dispute in the present case is clearly a private 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. Admittedly there was a business arrangement between the complainant and the husband of the petitioner herein.

24. 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 petitioner herein, with also absence of criminal intent and as such the proceeding in this case is liable to be quashed in the interest of Justice, to prevent an abuse of the process of law.

25. **CRR 5367 of 2024 is thus allowed.**

26. The proceedings of G. R. (S) No. 230 of 2024 arising out of Hare Street Police Station Case No. 70 of 2024 dated February 28, 2024 under Sections 420/406/467/468/471/120B of the Indian Penal Code, 1860 pending before the Court of the Learned Chief Judicial Magistrate, Calcutta, **is hereby quashed in respect of the petitioner namely Anamitra Acharya.**

27. All connected Applications, if any, stand disposed of.

28. Interim order, if any, stands vacated.

29. Copy of this judgment be sent to the learned Trial Court for necessary compliance.

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

(Shampa Dutt (Paul), J.)