

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

APPELLATE SIDE

Present:-

HON'BLE JUSTICE CHAITALI CHATTERJEE DAS.

CRR 386 OF 2015

DR. PRADIP KUMAR GHOSH

VS

THE STATE OF WEST BENGAL & ANR.

For the Petitioner : Mr. Soumopriya Chowdhury, Adv.
Mr. Kausik De, Adv.
Ms. Mohini Majumder, Adv.
Mr. Raghav Munshi, Adv.
Ms. Ayelita Ghosh, Adv.

For the State : Mr. Ranabir Roy Chowdhury, Adv.
Ms. Puja Goswami, Adv.

For the Opposite
Party no. 2 : Mr. Milon Mukherjee, Sr. Adv.
Mr. Subir Ganguly, Adv.
Mr. Avik Ghatak, Adv.
Mr. Jaydeb Ghorai, Adv.
Mr. Diptesh Ghorai, Adv.

Last heard on : 24.11.2025

Judgement on : 04.04.2026

Uploaded on : 04.04.2026

CHAITALI CHATTERJEE DAS, J. :-

1. The petitioner has sought for quashing of a proceeding along with the charge sheet in GR case no. 866 of 2014 arising out of Khardah Police Station case no.177 dated 27th February 2014 under section 17 of the Inland Fisheries Act and section 4D of the West Bengal Land Reforms Act on the allegation that two out of four ponds in a compound has been filled up by the petitioner without taking permission from the appropriate authority.

Brief Fact

2. The petitioner is a reputed scientist with hundreds of patents in his name and is a non-resident of India. He was a student of Swami Nityananda Maharaj in Rahara Ramkrishna Mission. The petitioner was contacted with said Swami Nityananda Maharaj with a proposal of constructing an International University under name of Vivekananda University along with an International Institute of Technology and Health Sciences .The petitioner was requested to sponsor such University and the petitioner donated through his philanthropic Foundation namely Pradip Ghosh and Kumkum Ghosh an amount of Rs 150 crores for that purpose. A memorandum of understanding was executed between Ramkrishna Vivekananda Mission, Barrackpore and Pradip Ghosh and Kumkum Ghosh Foundation on August 1, 2013.
3. The said Mission thereafter applied for permission from the Government to construct a University on a land owned by them at Laha Garden .3.B.T Road, Agarpara. In the year 2013 said Swamy Nityananda died and Swamy Nityarupananda became the new Secretary. Dispute arose since the new

Secretary refused to go ahead with the MOU. A suit was filed by the Foundation of the petitioner praying for declaration and execution of the specific performance of the MOU which had been executed. The Mission further even refused to acknowledge the authority of Swami Nityananda on behalf of the Mission and also took the plea that the signature was obtained while he was in his sick bed. The FIR was filed before the Khardah Police Station by the Mission against the petitioner with an allegation of filling up waterbody and changing the nature and character of the land without taking any prior permission of the Authority. On completion of the investigation the charge sheet has been submitted. The petitioner has come before this Court for quashing of the complaint and the subsequent orders.

Submissions

4. The Learned Senior Advocate Mr. Sandipan Ganguly argued that the allegations in the FIR are completely absurd and inherently improbable. The charge sheet does not reflect any offence under Land Reforms Act or Inland Fisheries Act against the petitioner. It is his specific contention that Section 17 of the said Act does not reflect any penal offence at all. Moreover under Section 22 of The West Bengal Inland Fisheries Act 1984 and no court is permitted to take cognizance of an offence punishable under the act save and except on a complaint made by the fishery officer not below the rank of a District Fishery Officer or a Police Officer not below the rank of a sub-Inspector. The term 'Complaint' is defined under section 2(d) of the Code of Criminal Procedure, which makes it abundantly clear that a complaint does not include a police report.

5. It is the further contention that the term Complaint as is used in section 22 of the Inland Fisheries Act cannot be rendered superfluous as no word in a statute can be said to be superfluous nor a court can add or subtract a word in a statute. Therefore the term complaint appearing in section 22 of the Inland Fisheries Act must be given its usual meaning as is contemplated under section 2 (d) of the Code of Criminal Procedure. It is the further contention of Mr. Ganguly the Learned Senior Advocate that the West Bengal Land reforms Act does not recognize any person or entity except a bargadar and a raiyat . That apart the sanctioned plan dated 18th December 2014 reflects existence of two ponds only, which naturally shows that there was requisite sanction as on 27th February 2014. Lastly it is submitted that since the civil dispute is pending between the parties the criminal proceeding is initiated with mala fide intention. Hence prayed for quashing the impugned proceeding.

6. The case of the Opposite Party no. 2 on the other hand is that the Opposite Party no. 2 being the Secretary of Ramkrishna Vivekananda Mission informed the Officer-in-Charge of Khardah Police Station in writing that the petitioner namely along with his agents, had illegally felled numerous old and valuable trees and was actively filling up two large ponds at the Mission's property without prior permission from the competent authority. It is the contention of the learned Advocate that the police after investigation found substantial material and accordingly submitted the charge-sheet. The Learned Magistrate after applying his judicial mind lawfully took cognizance and there is no illegality in this process. It is further contended that during pendency of the investigation the petitioner fled the country and went abroad and the

investigating agency in the charge-sheet showed him as an absconder .The mission denies any valid, registered agreement, approved by its governing body and the true intention of the petitioner is to grab the land. The act of filing up pond was not only an offence under the WBLR Act but also an attempt to make the Mission liable for contempt of Court. Hence prayed for dismissal of the complaint. The learned prosecution hand over the case diary.

7. The prosecution argued that the investigation has been completed and the charge-sheet has been submitted .Prima facie the charges are established in course of investigation and the charge is yet to be framed. The petitioner is not remediless .However prays for dismissal of the revisional application.

Analysis

8. Heard the submissions .The genesis of the complaint lodged by the Mission against the petitioner is filling up of the water bodies inside the campus of the Ramkrishna Mission by the petitioner and also felling of old trees in the Land villa without permission and also raising construction works without sanctioned plan. The case of the petitioner rests on the agreement executed in between the petitioner and the then secretary of the Mission late Nityananda Maharaj in the year 2013 whereby the petitioner and Kumkum Ghosh and their Foundation was entrusted to construct an International university along with an International Institute of Technology and health services, since the petitioner was a student of Swami Nityananda Maharaja in Rahara Ramkrishna Mission. The written complaint manifests that a five member committee was constituted who visited the site on February 2014 and found that an a huge tract of water body lying along the northern boundary wall of

the suit property has been dewatered and the same was being filled up preparatory to start the construction activities.

9. The committee was also not satisfied about the project and the name of Swami Nityananda to be the founder of the project and also that no plan for the upcoming building was sanctioned by the municipalities which was admitted to be submitted before the Municipality to be sanctioned within two days. The complaint is absolutely silent about the agreement executed between the parties. On perusal of the record it transpires that during inspection the Mission handed over the I.O the required document including the MOU dated January 10, 2013 between the petitioner and the Mission, an unregistered and unapproved agreement dated August 7, 2013 executed between them and the letter of Swami Nityananda cancelling the agreement dated August 7, 2013. The opposite party No 2 has filed the written objection admitting the factum of ownership of the disputed land by the Mission. It is also admitted that the petitioner was connected with few charitable activities of Ramkrishna Vivekananda Mission.

10. Obviously the question arises as to how in the land of the Opposite Party no. 2 a complete outsider got the access and committed such alleged illegal work of dewatering of waterbody and also preparatory work for the construction of raising a building to house an University without having any prior permission of the Mission. It is admitted by the Opposite party no 2 that Late Swami Nityananda Maharaj had a dream for establishing one University in the name of Swami Vivekananda and was interested to search for a land but he never thought of utilizing the suit property for that purpose. There are admission regarding making several correspondences by Swamiji with the petitioner over

establishment of University. In the Affidavit in reply the admission of laying foundation stone can also be found but according to the Opposite Party no. 2 it was done at the instigation of the petitioner which prima facie establishes the existence of an agreement. Further found that the building plan and the signature of the then secretary Maharaj was obtained from the other members of the governing body and but was not placed before the governing council with approval of Governing body. It can be gathered from the pleadings that the dispute arose after the death of said Swami Nityananda when Swami Nityaswarupananda Maharaj became the Secretary of the mission. The opposite party no 2 in the Affidavit in opposition has assailed that the signature in the agreement was obtained by the petitioner when Swami Nityananda was lying in sick bed however nowhere in the fore corners of the written complaint such allegation can be found neither the case was started to that extent and the charge sheet is also silent about such fact.

- 11.** The pendency of civil suits filed by the petitioner against the Opposite Party no. 2 for declaration and injunction is evident from the pleadings. It is also admitted that a MOU was entered into between Pradip Ghosh Family Foundation and the R.K.V Mission for establishing one University and decided that everything would be done under the instruction of the Governing Council which was formed with 8 members from the Mission and 7 members from the Foundation but it has been alleged that the petitioner violated certain the terms and condition while proceeded with the construction. It can be gathered further that the Mission never engaged any labour or architect or any contractor for the construction within the property and everything was done by the petitioner who was entrusted to continue with the construction.

12. The draft resolution dated August 3rd 2013 annexed with the petitioner would reveal that in presence of the chairman Justice Shyamal Kr. Sen ,Swami Nityananda Maharaj ,the petitioner and other persons it was unanimously resolved that Raja Dasgupta will act as an agent on behalf of the petitioner for preparation of the documents and submissions of papers to Swami Nityananda Maharaj and as proposed by Nityananda Maharaj that he will endorse all the papers produced before him by Raja Dasgupta with or without the approval of the Governing Council of the University. The letter dated February 26,2014 discloses that permission was sought for relocation of the pond situated within the boundary wall of the disputed land by the petitioner before the Fishery Department ,Government of West Bengal that is after the lodging of the complaint. The Affidavit in reply filed by the petitioner on the other hand manifest an order passed in favour of Pradip Ghosh Family Foundation in FMAT 1110 of 2014 whereby liberty was granted to them to build the University on the disputed property without having a joint venture with them. The factual matrix further reveals that the Mission filed the suit for declaration claiming that the Deed of Agreement dated August 7, 2013 is illegal, fraudulent void and not binding upon the plaintiff though admitted the signature of erstwhile Secretary of the Mission.

13. Therefore from the above pleadings it left no rooms to doubt that the petitioners' involvement with the Mission for various charity works and in connection with the construction of the University at the disputed place. He also entered into an agreement with Late Swami Nityananda Maharaj during his life time to construct a building for the purpose of Vivekananda University but presently the said agreement is under challenge before a civil court filed

by the Mission. The petitioner has taken the specific stand that the Mission applied for sanction of the building for the proposed University but suppressed the same in the written complaint and also proposal of the Mission for partial filling up of a purported water body existing at the site which was sanctioned by the Municipality. The legality of such agreement or whether any prior sanction of plan by the Municipality was there or not can be decided only by the Civil Court in course of the trial of the suit pending but prima facie existence of the agreement between the parties containing the signature of the erstwhile secretary establishes the authority of the petitioner on the strength of which he proceeded with the construction.

14. On the point of maintainability of the complaint under the west Bengal Inland Fisheries Act and the WBLR Act it is necessary to read the provisions.

Section 4D of the WBLR Act of 1955 deals with the offences and penalties for 1) any change, conversion or alteration in the area, character or mode of use of any land except in accordance with the provisions of Section 4C or any violation of the order of the collector under Sub-Section (5) of Section 4C (shall be a cognizable and non-bailable offence and shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to fifty thousand rupee or both).

Section 4C deals with permission for change or use of land. This provision specifies that a raiyat holding any land may apply to the collector for change of area of character of such land for conversion of the same for any purpose for which it was settled or was being previously used or for alteration in the mode of use of such land.

In terms of section 17A of The Inland Fisheries Act it would construe an offence if any person filled up the water body without the permission of appropriate authority and in terms of Section 22 of the West Bengal Inland Fisheries Act, 1984 no Court is permitted to take cognizance of an offence punishable under the Act save and except on a complaint made by the fishery officer not below the rank of a District Fishery Officer or a Police Officer not below the rank of a Sub inspector.

According to the definition of the term complaint under section 2(d) of the Code of Criminal Procedure, 1973 only a police report which discloses a non-cognizable offence shall be deemed to be a complaint .

In this case, the case started on the basis of the complaint alleging of filling up of ponds without permission, under Section 17 Inland Fisheries Act and 4D L.R Act .The complaint was lodged before the Chairman Panihati Municipality by the secretary of the Mission Swami Nityaswarupananda Maharaj and the same was treated as FIR. The case diary discloses that the SI of Police made an application before the BL & LRO Barrackpore II to arrange necessary papers in respect of the ownership of the land of the disputed plot and primarily the same was found recorded in the name of the Mission. The charge-sheet was filed on completion of investigation when the Learned Magistrate took the cognizance .Therefore the complaint before the police was not lodged by the Secretary of the Mission. Section 17 of the West Bengal Inland fisheries act was brought into existence by the enactment of the West Bengal Inland Fisheries (Amendment) Act, 1993 which was enforced from 1994 onwards that is about 10 years after the enactment of the principal act. Subsection 12 of section 17 A specifically made an offence committed under

Section 17A (11) of the said act a cognizable and non-bailable offence. It was the conscious intent of the legislature to make an offence under the said act a cognizable and non-bailable without factoring it with the restrictions that are otherwise imposed upon the other often sections mentioned in the said act, vide Section 22 of the same.

Therefore there remains no doubt with regard to the fact that on an offence under section 17A of the said act need to be taken cognizance of, solely upon a complaint made pertaining to the commission of the said offence by a Fishery Officer or a Police Officer not below the rank of sub-Inspector. The Secretary Swami Nityaswarupananda Maharaj informed to the chairman of the municipality concerned and the case was started by the court the police station under Section 17 of the West Bengal Inland Fisheries Act, 1984 and Section 4D of West Bengal and Reforms Act, 1955

15. The Learned Court took the cognizance considering the materials of the case diary, the statements of the witnesses recorded in course of investigation and found that the petitioner is absconding and hence date was fixed for execution of warrant. In view of the decisions of the Hon'ble Supreme Court in cases including the case of ***Mohammed Ali and others versus State of Uttar Pradesh and others reported in¹ (para 11-13)*** as relied upon by the Learned Senior advocate reiterated that whenever an accused comes before the court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed any essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with

¹ (2023)15 SCC 488

ulterior motive for wreaking vengeance, then in such circumstances the court owes a duty to look into the FIR with care and a little more closely. It was held that the court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averment is and, if need be, with due care and circumspection tried to read in between the lines. The Court while exercising its jurisdiction under Section 482 Cr.P.C or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in course of investigation. The Hon'ble Supreme Court in the above-mentioned decision took note of the decision **of State of A.P versus Golconda linga Swami**² where the Court elaborated on the types of materials the High Court can assess to quash and F IR. The Hon'ble court drew a fine distinction between consideration of materials that were tendered as evidence and appreciation of such evidence. Only such materials that manifestly fails to prove the acquisition in the FIR can be considered for quashing an FIR.

16. In the case of **Naresh Aneja v. State of UP**³ it has been observed that courts cannot "*conduct a mini-trial*" but only need to be satisfied that the allegations meet the threshold for constituting an offence. "*To put it differently,*" the Court held, "*it is to be seen, without undertaking a minute examination of the record, that there is some substance in the allegations made which could meet the threshold of statutory language.*"

² (2004) 6 SCC 522

³ (2025) INSC 19

17. Therefore as from the case diary prima facie it is evident that the letter was issued to the Fishery Department by the present petitioner on 26th February 20, 2014 which is after the day of lodging complaint by the Secretary before the Chairman Panihati Municipality the possibility of no prior permission either for relocation or for conversion cannot be ruled out. An agreement was executed between the parties and the petitioner was entrusted to do the job and an agent was entrusted to take all steps must be in accordance with law. The resolutions annexed with the Affidavit in reply whether the complaint has been lodged prematurely that is before the petitioner took the necessary initiative for the purpose of the project or not cannot be decided by this court. Prima facie materials are sufficient to show that the petitioner was entrusted to continue with the project but that doesn't justify any defiance of legal formalities to be complied before initiating such project.

18. This Court is also of the view that there are number of documents filed before this Court by way of an affidavit in opposition as well as reply by both the parties and most of the documents may not be collected in course of investigation which keeps the issue of further investigation alive subject to observance of all required formalities to be decided by the learned Magistrate if found necessary.

Conclusion

19. After cumulative assessment of the entire facts and circumstances of the case this court is not satisfied that the entire complaint is to be quashed by this Court when the issues which requires in-depth analysis and assessment which can be done only by the learned Court of Magistrate. No charge has either been framed and therefore the petitioner can very well can place the

entire materials before the learned court and in turn the learned Court can very well apply his judicial mind considering the materials available as to whether the charges can be framed or not.

20. Therefore this court is unable to consider the prayer of the petitioner.

21. Hence the instant criminal revisional application stands dismissed.

22. No order as to cost.

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

(CHAITALI CHATTERJEE DAS,J.)



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Calcutta