



IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

APPELLATE SIDE

Present:-

HON'BLE JUSTICE CHAITALI CHATTERJEE DAS.

CRR 493 OF 2025

ARUP MONDAL

VS

THE STATE OF WEST BENGAL & ANR.

For the Petitioner : Mr. Rajdeep Mazumder, Adv.

Ms. Arushi Rathore, Adv.

For the State : Mr. Rudradipta Nandy, Adv.

Mr. Santanu Talukdar. Adv.

For the Opposite

Party No. 2 : Mr. Nizamuddin Ahmed, Adv.

Last heard on : 01.12.2025

Judgement on : 04.04.2026

Uploaded on : 04.04.2026

CHAITALI CHATTERJEE DAS:-

1. The application has been filed under Section 482 of the Code of Criminal Procedure, presently under 528 of BNSS 2023 for quashing the proceedings in connection with Patuli Police Station case no. 437 of 2024, dated November



22, 2024, under Sections 318(4)/61(2) of BNSS, 2023 pending before the learned Additional Chief Judicial Magistrate, 24 Parganas South.

Fact of the case

2. The instant case was initiated on the complaint of Shankar Aditya alleging that in between April 11, 2024 to June 23, 2024, the unknown accused persons entered into a criminal conspiracy and pursuant to such conspiracy induced the petitioner to invest money in bitcoin trading in name of Yotemo currency Services Company with a false assurance of high return. The complainant sent an amount of ₹85.80 lakhs to the accused person through online transaction but did not allow to full withdrawal of his accumulated verified account balance and accordingly had applied for withdrawal. He was asked to pay verification fund towards cross border fee and government mandate tax to get back his account balance with Yotemo exchange, which he did not pay and he did not get any return.
3. The petitioner has filed the instant application stating to be an innocent person who came to learn about the genesis of the present complicated situation arising out of the written complaint dated November 22, 2024 by Shankar Aditya. The petitioner became aware about the present case through his bank, Punjab National Bank, Jangra Hattira, where he holds an account. He apprehended that he may be unjustly, implicated or drawn into the proceedings and could be wrongly summoned by the investigating agency in connection with the matter.

Submissions

4. The learned Senior Advocate Mr. Rajdeep Majumdar argued that the proceedings are mala fide and vexatious which have been instituted against



the petitioner with an ulterior motive. On bare reading of the written complaint, it becomes evident that the petitioner is not named therein . The allegations are absolutely vague and baseless. This revisional application was filed on 30 January 2025 and during pendency of the proceeding the investigating authority submitted FRT on February 2025 due to lack of materials to prove the charges. On 6th September 2025, the prayer made by the investigating officer before the learned court of Magistrate for further investigation was allowed and the investigation was reopened.

5. It is submitted by the learned Senior Advocate that after filing FRT, the date was fixed on June 3, 2025 and notice was issued upon the de-facto complainant on June 3, 2026 fixing the next date on February 9, 2026 for S/R and appearance. Meantime on the prayer made by the investigating authority the prayer for further investigation was allowed.
6. The learned Senior Advocate submitted that the prayer for further investigation dated September 5, 2025, was allowed on September 6, 2025 before passing any order to either accept or reject the FRT when the date was fixed on February 9, 26 for service return and appearance with regard to the notice issued on o/c and hence this is not permissible in the eye of law. It is further assailed that after filing of FRT in absence of cogent materials suddenly the investigating agency became prompt and application was filed for passing necessary direction to transfer the claim amount of ₹1, 58, 638.01 from the beneficiary account, which was at IndusInd Bank Barakhamba Branch on September 8, 2025. The branch manager was requested to release such amount freezed in the account of IndusInd Bank to the account of the de-facto complainant at ICICI Bank, Garia Branch, subject to de-facto complainant



furnishing a bond of equivalent amount with usual conditions. It is submitted that the petitioner is highly prejudiced because of the order of further investigation before the date fixed for appearance of the de-facto complainant. Mr. Mazumdar the learned Senior Advocate relied upon the decisions reported in ***Vinu Bhai Hari Bhai Malviya, and others versus state of Gujarat***¹ and another in order to substantiate that the power of the learned Magistrate to order for further investigate the offence continues till the stage the trial commences and the power can be exercised suo motu by the Magistrate himself depending on the facts and circumstances of each case but the discretion must be exercised in accordance with law and if fresh facts comes into light for doing substantial justice.

7. Further put reliance on the case of ***Vikash Ranjan Raut versus State through the Secretary (Home) government of NCT, Delhi***². Where the distinction between the powers to be exercised by magistrate with respect to further investigation at pre-cognizance stage and post cognizance stage was discussed. The decision relied upon reported in, ***Anand Kumar Mohatta and another versus State (NCT of Delhi, Department of Home and Another)***³
8. The prosecution on the other hand submits that the case was taken out for further investigation under order of superior on September 22, 2025, and it was found that the amount was transferred by the de-facto complainant from his ICICI bank account, Garia branch to the different accounts as per instructions of the miscreants during the period from April 11, 2024 to June 23, 2024. The fund was transferred to SBI, PNB, RBL, ICICI, I OB, Jana Small

¹ (2019) 17 SCC 1

² (2019) 5 SCC 542

³ (2019) 11 SCC 706



Finance Bank, AU Bank, Saraswat cooperative Bank. It was further detected in course of investigation that 15 mobile numbers were registered in the name of the present petitioner and sent three notices in three different communicating address, but all the letters returned except one letter, but the petitioner did not come to this investigating agency for examination and it denotes that he is absconding and is evading the process of law. Therefore fact that investigation is required to enquire the fact and to know the flow of misappropriated fund and to book the culprit in the instant case for the purpose of investigation.

Analysis

9. Heard the submissions and perused the materials on record.

In a recent decision of the Hon'ble Supreme Court in ***State through Central Bureau of Investigation versus Hemendra Reddy and Anr.***⁴ the issue considered is that whether the High Court was justified in quashing the entire prosecution instituted by the CBI against the accused persons for alleged offences on the ground that the CBI could not have undertaken further investigation under subsection Section (8) of Section 173 of the Code of Criminal Procedure, 1973 and filed a charge sheet having once already submitted a final report under Sub Section (2) of Section 173 of the Code. Another ,whether the High Court was right in taking the view that the special court could not have taken cognizance upon the charge sheet filed by the CBI based on the investigation having once already filed a closure report in the past and the same having been accepted by the court, concerned at the relevant point of time.

⁴ (2023) SCC Online SC 515



10. In the said case, the CBI filed an application before the principal special judge for CBI cases, Chennai with prayer to close the proceedings and return the documents for the purpose of regular departmental action against the accused no. 1. It was further prayed that the seized documents during the course of investigation be returned so that the same could be used in the regular departmental action that may be initiated against the accused NO.1 . The said application was taken up by the Special Court and the final report was accepted, and the FIR was closed and permitted to return the documents collected during the investigation for further use. This order was passed on January 29, 2009 .On June 26, 2013 the CBI filed an application under Section 173(8) of the Cr.P.C seeking to reopen and undertake further investigation of the case on the ground of new evidence emerges to prove the allegations levelled against the accused persons. The said petition was allowed considering the ground taken and it would be just proper to order for reopening the case. Accordingly, the letter/summons was issued to the Deputy Commissioner of custom. Challenging the same, the revisional application was filed and the CBI in their reply relied upon the decision of ***Vinay Tyagi versus Irshad Ali @ Deepak, and others***⁵ that a Police Officer can carry on further investigation even after a report under Section 173(2) of the Cr.PC is submitted with the only rider being that the police should seek formal permission from the court. The Hon'ble Supreme Court discussed that since there were inconsistencies in the judicial views taken by the various courts regarding the power of police to investigate into an offence came to an end and the magistrate's cognizance of the offence started and in 41st report of law

⁵ (2013) 5 SCC 762



commission, it was recommended that the right of the police to make further investigation should be statutorily affirmed. Accordingly, the provision section 173 (8) Cr.PC came to be introduced, which statutorily empowered the police to undertake further investigation after submission of the final report under Section 173(2) of the Cr.PC. The Hon'ble Apex Court further discussed that Section 173(8) of CrPC may be fragmented or dissected as, further investigation can be done in respect of an offence where report under Section 173(2) has been forwarded to the magistrate during further investigation, the Office- in-Charge has power

- a) to obtain further evidence, or documentary*
- b) To forward to the magistrate, if further report or reports regarding such evidence in the prescribed.*
- c) the provisions of sub section(2) to(6) shall, as far as may be, apply in relation to such for the report or reports.*

11. The decision of ***Rama Choudhury versus State of Bihar reported in***⁶ was discussed where it was held '*further investigation within the meaning of provision of Section 173(8) Cr.PC is additional; more; or supplemental.*' *further investigation*', therefore, is the continuation of the earlier investigation and not a fresh investigation or re-investigation to be started wiping out the earlier investigation all together." When final report forwarded by the investigating officer to a magistrate under Section 173(2) (i) of the Cr.PC is placed before him, several situations may arise. In case the report conclude that an offence has been committed, the Magistrate.

⁶ (2009) 6 SCC 346



i) may either accept the report and take cognizance of an offence and issue process or

ii) may disagree with the report and drop the proceedings or may take cognizance on the basis of the report/material submitted by the investigation officer and

iii) may direct further investigation under Section 156(3) and required police to make a report as per Section 173(8) of the Cr.PC,

iv) may treat the protest petition as a complaint and proceed under Section 202 of Cr.PC.

The Hon'ble Apex Court also took note of the decision of **Hasan Bhai Valibhai Qureshi versus State of Gujarat and others (Supra)** where it was held that the mere fact that there may have the delay in concluding the trial should not stand in the way of further investigation, if that would help the Court in arriving at the truth and do real and substantial and effective justice.

12. After discussing the series of decisions over the issue observed that “*when Section 156(3) states that a magistrate empowered under Section 190 may order*” such an investigation’, such Magistrate may also order further investigation under Section 173(8) regard being had to the definition of investigation contained in section 2(h)’. It was however held that when a final report of the police is submitted to the magistrate the concerned magistrate is having unfettered right of granting further investigation, as per sub-clause (S) of Section 173 of the said Code. Further held in the said decision that for granting permission to conduct further investigation an investigation must be pending or some proceeding must be pending before the concerned court. It is



a settled principle of law that after filing a final report under clause (2) of Section 173 of the Code while the matter is pending, the Investigating Officer can collect some more materials so as to strengthen the accusation made against the concerned accused.

13. In the light of the above judicial pronouncement it can be seen in the instant case, after the final report was submitted before the magistrate, the direction was given to issue notice, keeping the matter pending for appearance of the de-facto complainant. Meantime, the application was taken out by the investigating authority for further investigation. Admittedly, in the petition, initially, re-investigation was mentioned, however, that was subsequently corrected by putting further investigation and the learned Court accepted the same and directed for further investigation.

14. In the case of **Vinubhai Haribhai (supra)** it was held:

It is thus clear that the Magistrate's power under Section 156(3) of the CrPC is very wide, for it is this judicial authority that must be satisfied that a proper investigation by the police takes place. To ensure that a "proper investigation" takes place in the sense of a fair and just investigation by the police - which such Magistrate is to supervise - Article 21 of the Constitution of India mandates that all powers necessary, which may also be incidental or implied, are available to the Magistrate to ensure a proper investigation which, without doubt, would include the ordering of further investigation after a report is received by him under Section 173(2); and which power



would continue to ensure in such Magistrate at all stages of the criminal proceedings until the trial itself commences. Indeed, even textually, the “investigation” referred to in Section 156(1) of the CrPC would, as per the definition of “investigation” under Section 2(h), includes all proceedings for collection of evidence conducted by a police officer; which would undoubtedly include proceedings by way of further investigation under Section 173(8) of the Cr.P.C.

15. The facts and circumstances of the decision relied upon by the Learned Senior Advocate in **Bikash Rout (Supra)** is distinguishable in view of different facts and circumstances where the Magistrate accepted the Report and discharged the accused which was set aside. In the case of **Anand Kumar Mohata Vs State (NCT of Delhi) (Supra)** the Court did not find merit in the submission that once the charge sheet is filed, petition for quashing FIR is untenable. Where the Hon’ble Apex Court discussed the scope of exercise of power under Section 482 when the charge-sheet was filed by the police during pendency of such application. **The Hon’ble Court relied upon the decision of Joseph Salvaraj A versus State of Gujarat,⁷** where in paragraph 16, it was held;

16 ; that, from the general conspectus of the various sections under which the appellant is being charged and is to be prosecuted would show that the same are not made out, even prime facie from the complaint’s, FIR . Even if the charge-sheet has been submitted, the learned Single Judge Josheph Saivaraj A vs State of Gujarat ,2007 SCC

⁷ (2011)7 SCC 59



Online Guj. 365, could have still examined whether the offences alleged to have been committed by the appellant were Prima Facie made out from the complainants's FIR, charge sheet, documents etc. or not.'

16. In the decision of **Jakia Nasim Ahesan and Anr (supra)** the SIT submitted the final report and hence direction was given to forward the final report to the court which had taken cognizance. It was further directed that in the event of not having sufficient materials the court before taking final decision of the closure report shall issue notice to the complainant and if the court found there exists no sufficient grounds for proceeding against some of the persons named in the FIR, the Magistrate must give the notice to the informant and provide him an opportunity to be heard at the time of consideration of report. So the contention off the Learned Senior Advocate is that since the notice was issued to the informant /complainant, the acceptance of the same was and pending and in between the further investigation order was passed without waiting for the final outcome of the case.

Conclusion

17. In view of the thread bare discussion of the Hon'ble Supreme Court of India on this issue, there remains no room for further discussion that by passing such order for further investigation, the learned Magistrate has not committed any illegality. That apart the petitioner filed the petition for quashing the complaint who was not an FIR named person and therefore, at this stage question of quashing the proceeding does not arise since direction has been given for further investigation. However it is contended that the account of the petitioner was kept as freeze even after the FRT was filed .In the fore corner of



this application no such statement on affidavit was mentioned excepting that he apprehended that he may be unjustly implicated or drawn into the proceeding and could be wrongfully summoned by the investigating agency in connection with this matter. Only on the basis of apprehension a case involving more than 80 lakhs cannot be quashed specially when the investigation is still going on by the Anti-Fraud section and the petitioner is not an FIR named accused.

18. Hence, this court is not inclined to allow the prayer of the petitioner.
19. The instant criminal revisional application is hence stands dismissed.
20. No order as to cost.
21. Urgent certified copy if applied by any of the parties to be supplied subject to observance of all formalities.

(CHAITALI CHATTERJEE DAS, J.)