IN THE HIGH COURT AT CALCUTTA

CRIMINAL REVISIONAL JURISDICTION

APPELLATE SIDE

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. No. 1287 of 2022

Taniya Roy @ Tania Roy

Versus

The State of West Bengal & Anr.

For the Petitioner	:	Mr. Meghajit Mukherjee, Adv. Ms. Mobina Ali, Adv. Ms. Sonia Das, Adv.
For the Opposite Party No. 2	:	Mr. Amarta Ghose, Adv. Mr. Souryadeep Ghosh, Adv.
For the State	:	Mr. Kaushik De, Adv. Mr. Arijit Banik, Adv.
Heard on	:	05.10.2026
Judgment on	:	26.11.2026
Uploaded on	:	26.11.2026

Ajay Kumar Gupta, J.:-

1. By filing this Criminal Revisional application under Section 482 of the Code of Criminal Procedure, 1973 (In short, 'Cr.P.C.'), the petitioner

is seeking for quashing of the Proceedings being G.R. Case No. 541 of 2022 arising out of Tala P.S. Case No. 25 dated March 07, 2022 under Sections 120B/406/420 of the Indian Penal Code, 1860 pending before the Court of the Learned Additional Chief Judicial Magistrate, Sealdah at South 24 Parganas.

2. On March 07, 2005, Jyotiprakash Roy Chowdhury (since deceased), owner of Premises No. 74A, Barrackpore Trunk Road, Police Station Tala, Kolkata 700 002, entered into a Joint Venture Agreement for development of the property with Pratima Bagchi, wife of opposite party no. 2 (the first informant) and sole proprietress of Sree Sree Partha Sarathi Developers.

3. On December 04, 2007, the developer, represented by Pratima Bagchi, and the landowner entered into an Agreement for Sale with the petitioner for Flat No. 4D in the said premises, at a consideration of Rs. 11,97,800/-. The petitioner paid Rs. 3.50 lakh as earnest money on that date, duly acknowledged by the developer and by the Constituted Attorney of the landowner. The balance was payable in two monthly instalments under the schedule of payment at page 13 of the Agreement.

4. The developer later proposed to enhance the price to Rs. 14,00,000/- on account of increased costs of materials and labour, and the

petitioner agreed. By letter dated December 05, 2009, the developer further enhanced the price to Rs. 19,88,800/-.

5. Alleging unfair trade practice, repeated enhancement of the consideration, and unwillingness to hand over the flat, the petitioner filed CC No. 10/2014 under Section 17 of the Consumer Protection Act, 1986 on January 15, 2014 before the West Bengal State Consumer Disputes Redressal Commission. Pratima Bagchi appeared and filed her written statement. By order dated July 03, 2017, the Commission held as follows:-

> *"Therefore, on evaluation of materials on record, it become quite clear that the complainant being a 'Consumer' as defined in Section 2(1)(d)(ii) of the Act hired the services of the developer on consideration, to whom landowners authorised to raise a multi-storied building but the OPs i.e. the developer as well as landowner were deficient in rendering services U/s.2(1) (o) read with Section 2(1) of the Act. Considering the facts and circumstances of the case, it appears to me an order upon OPs to deliver possession and to execute the sale deed within 30 days from the date of receipt of balance consideration amount of Rs.38,800/-, compensation of Rs. 2,00,000/- and a litigation cost of Rs. 20,000/-will sub-serve the object of justice.*
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> *Consequently, the petition of complainant is allowed on contest. The OPs are jointly and severally directed to deliver possession and to execute the sale deed in respect of the flat in favour of the complainant within 30 days as mentioned in the agreement for sale dated 04.12.2017 on receipt of balance consideration amount of Rs. 38,000/- The OPs are directed to make compensation of Rs.2,00,000/- out of which Rs. 1,00,000/- will be paid by the OP Nos.1 & 2 and the balance amount of compensation of*

Rs. 1,00,000/- will be paid by OP Nos. 3 to 6. The OP Nos. 1 & 2 and OP Nos.3 to 6 shall also make payment of Rs. 10,000/- each aggregating Rs. 20,000/- as litigation cost to the complainant. The above amount of compensation and litigation cost must be paid by the OPs within 30 days from the date of receipt of order otherwise amount shall carry interest @ 9% p.a. from date till its full realisation."

6. The developer and the landowner's side filed an appeal under Section 19 of the Act, being F.A. No. 1638 of 2017. The National Consumer Disputes Redressal Commission dismissed the same on July 13, 2020. Their Special Leave Petition (S.L.P. (C) No. 13257 of 2020) was also dismissed by the Hon'ble Supreme Court on January 25, 2021, and Review Petition (C) No. 174 of 2022 was also dismissed on February 24, 2022.

7. Meanwhile, on January 31, 2022, opposite party no. 2 filed a petition of complaint, being Case No. C-31 of 2022 before the learned ACJM under Section 156(3) Cr.P.C., alleging offences under Sections 420/465/467/406/506(II)/34 IPC against the petitioner and three co-accused. By order dated March 04, 2022, the learned ACJM directed investigation, and Tala P.S. Case No. 25 dated March 07, 2022 was registered under Sections 120B/406/420 IPC. A notice under Section 41A of Cr.P.C. was served on the petitioner directing him to meet the Investigating Officer.

8. Upon being unsuccessful before various fora, the present criminal case was instituted by the wife of the opposite party no. 2/first informant through her husband, suppressing all the material facts; therefore, the proceeding initiated against the petitioner is a sheer abuse of process of law. It may be quashed to prevent the petitioner from vexatious and malicious proceedings based on false and fabricated facts, and the allegation of commission of an offence is absolutely baseless, frivolous and displays a clear misuse of the provisions of criminal law and fails to disclose any commission of an offence committed by the petitioner. Hence, this revisional application.

9. Learned counsel representing the petitioner submitted that the allegations levelled in the complaint suffer from antagonistic contradictions and inherent absurdity. The complainant further suppressed the civil proceedings in different fora, albeit they participated and finally lost their case before the Hon'ble Supreme Court based on false representation and contentions. The allegations, taken to be true, do not make out any cause of action giving rise to initiation of criminal case, when the disputes between the parties are finally set at rest by the Hon'ble Supreme Court by affirming the order and observation made by the Consumer Court in CC 10 of 2024 in favour of the petitioner. The petitioner further submitted that the

charge under Section 420 of the Indian Penal Code, 1860 is a misnomer.

10. It was further submitted that the instant proceeding is barred by delay and laches of the opposite party no.2/first informant. Even the opposite party no.2/first informant was not able to explain the huge delay in filing the criminal case. In cases where there is a delay in institution of the case, the Court has to look for a plausible explanation for such delay. In the absence of such an explanation, the delay becomes fatal. In such cases, the court should carefully examine the facts before it for the reason that a frustrated litigant may initiate a criminal proceeding, just to harass the other side with mala fide intentions or the ulterior motive of wreaking vengeance on the other party. Chagrined and frustrated litigants should not be permitted to vent their frustrations by cheaply invoking the jurisdiction of the criminal court. The court proceedings ought not to be permitted to degenerate into a weapon of harassment and persecution.

11. It was further submitted that even if the story of the complainant is accepted to be gospel truth, then also the placement of fact singularly lacks either of the ingredients of the offence alleged as demonstrated hereinabove. The story projected through the petition of complaint suffers from intrinsic hollowness and antagonistic contradictions. The

allegations made in the said First Information Report are so absurd and inherently improbable on the basis of which no prudent person can ever reach the just conclusion that there is sufficient ground for proceeding qua the petitioner. Therefore, the proceeding pending against the petitioner is liable to be quashed; otherwise, the petitioner herein will suffer irreparable injury, and that cannot be adequately compensated in any manner.

12. Learned counsel for the petitioner placed reliance of two judgments passed by the Hon'ble Supreme Court in the case of ***Delhi Race Club (1940) Limited and Ors. v. State of Uttar Pradesh and Anr.***[1], particularly paragraph No. 38 and ***Kusha Duruka v. State of Odisha***[2]***,*** particularly paragraph No. 6, to fortify his submission made hereinabove.

13. Learned counsel for the opposite party No. 2, on the other hand, submitted that the criminal case was initiated by the husband of the opposite party no. 2. During pendency, opposite party no. 2, namely Anup Chandra Bagchi, expired; as such, presently, his wife Smt. Pratima Bagchi, has been incorporated in place of the original complainant after amendment. The allegation made against the petitioner is genuine and valid; as such, even after investigation, a charge sheet no. 48 of 2023 dated 18.09.2023 under sections

[1] ***(2024) 10 SCC 690***
[2] ***(2024) 4 SCC 432***

120B/406/420 of the Indian Penal Code has been submitted against the four accused persons, including the present petitioner. Actually, she is the principal accused. Therefore, she is liable to face a full-fledged trial and demonstrate her case as submitted above because the High Court cannot conduct a trial or mini-trial to uncover the truth, where the whole case is based on disputed questions of fact that need full proof evidence. The instant criminal revisional application, filed by the petitioner, is meritless; therefore, the same is liable to be dismissed.

14. The petitioner has entered into an agreement for sale on 04.12.2007 for purchase of one flat being flat No. "D" on the 4th floor of the premises measuring an area of 904 sq. ft. approx. and the developer has received some money in instalments, totalling Rs. 14,61,750/- out of a total of Rs. 19,88,000/- (full flat value). But suddenly, said Tania Roy claimed that she had paid a sum of Rs. 3,30,750/- to M/S. Trinity Associates, which was fully out of knowledge of the complainant and developer, and the said Tania Roy, tactfully, with the intention to cheat the complainant as well as the developer conspiring with other accused persons, suppressed the name of her husband, Sri Amar Pandey, the accused no. 2, as one of the partners of M/S. Trinity Associates. Learned counsel has placed reliance on a decision of the Hon'ble Supreme Court in the case of ***Dinesh Sharma***

v. Emgee Cables and Communication Ltd. and Anr.[3], wherein it was held that the High Court erred in quashing the proceedings on the premise that the parties had long-standing business dealings and that criminal proceedings were a device to recover dues. It held that the High Court should have refrained from quashing at the nascent stage of investigation, since the allegations could be tested only at trial. It also referred to ***Parbatbhai Ahir v. State of Gujarat***[4] on the weight of economic offences. The investigation there, as here, ended in a charge sheet. He further distinguished that the decision relied upon by the petitioner in the case of ***Delhi Race Club (Supra)*** is in no manner applicable in the present case since the case was filed prior to delivery of judgment.

15. Learned counsel for the State produced the case diary and vehemently opposed the prayer of the petitioner and further submitted that the petitioner has not paid the whole consideration amount in connection with the flat booked. The main allegation against the accused persons is that the amount of Rs. 3,30,750/- shown as payment allegedly made by Tania Roy to M/S Trinity Associates in two instalments of Rs. 2,00,000/- and Rs.1,30,750/- on 31.03.2010 and 05.11.2010 respectively under the money receipts provided by the signatories of M/S Trinity Associates was never

[3] ***2025 SCC Online SC 929***
[4] ***(2017) 9 SCC 641***

received by the complainant's company from the accused persons. During investigation, sufficient material was collected to establish a *prima facie* case against the petitioner; therefore, the instant application is liable to be dismissed, and the proceeding should be allowed to continue to uncover the truth and punish the real culprits.

16. Having heard the submissions and arguments advanced by the learned counsel for the respective parties and having gone through the materials made available on the record as well as the case diary, this court proceeds on the settled position that, while exercising inherent jurisdiction under Section 482 Cr.P.C., it does not conduct a mini trial or weigh the evidence. The question is whether the allegations, taken at their face value and accepted in their entirety, together with the material collected during investigation, disclose the ingredients of the offences alleged, or whether the proceeding is a manifest abuse of process.

17. It is undisputed facts that the petitioner had booked a flat after execution of agreement for sale but the complainant's allegation is that the present petitioner allegedly paid a sum of 3,30,750/- to M/S Trinity Associates in two instalments of Rs. 2,00,000/- and Rs. 1,30,750/- on 31.03.2010 and 05.11.2010 respectively under the money receipts provided by the signatories of M/S Trinity Associates, However, it was never received by the complainant's company from

the accused persons. The main allegation against the present petitioner is that she did not pay the aforesaid amount to the actual owner of the flat. Even if the complainant's contention is accepted in toto, the same would never fall within the purview of criminality. No offence can be attributed by the complaint to the buyer that he/she committed an offence punishable under Section 406 and/or 420 of the IPC.

18. To constitute the offence punishable under Sections 406 and 420 of the Indian Penal Code, there must of entrustment of property to the accused and deception made from the very beginning from the side of accused that is wholly missing in the present case. Once the similar dispute or disputes arises between the parties settled by the court of law up to the Hon'ble Supreme Court, the criminal offence as alleged is meaningless and meritless.

19. From the perusal of the complaint, it appears that there was no fraudulent or dishonest inducement or deception by intentional practiced by the petitioner right from the beginning of the transaction. If subsequent payment has not been made or made to someone else would not tantamount to deception, fraudulent or dishonest inducement nor would it amount to deception by intentional means right from the beginning of the transaction. Furthermore, there is no such allegation of entrustment of property

upon the petitioner, who used it for his own purpose and dissipated. The petitioner had not deceived nor induced to enter into the agreement for sale. That is not her case in the complaint nor there was any inducement dishonestly or fraudulently made to enter into agreement for sale. The breach of contract or none payment or payment made to some one else cannot be called cheating in the facts of this case. Therefore, the case under Sections 406/420/120B of IPC in the facts of this case has not been made out.

20. Section 406 IPC indicates that the offence of criminal breach of trust, defined in Section 405 IPC, requires (a) entrustment of property, or dominion over property, to the accused, and (b) dishonest misappropriation or conversion of that property to the accused's own use, or its dishonest use or disposal in violation of a direction of law or of a legal contract. Entrustment is the foundational ingredient.

21. Section 420 IPC indicates that the offence requires (a) deception of a person, and (b) thereby fraudulently or dishonestly inducing that person to deliver property, or to make, alter or destroy a valuable security or anything capable of being converted into one. Cheating is defined in Section 415 IPC. The essence of the offence is a fraudulent or dishonest intention existing at the very inception of the transaction. A mere failure to keep a promise afterwards does not allow a culpable intention at the time of the promise to be presumed.

Use of expressions such as “cheating”, “deception” or “inducement” in a complaint is of no consequence unless the facts disclose the ingredients.

22. Section 120B IPC indicates that criminal conspiracy requires an agreement between two or more persons to do, or cause to be done, an illegal act. Where the substantive offences alleged are not made out against the petitioner, the charge of conspiracy to commit them cannot stand on its own as against the petitioner.

23. Applying these principles, the undisputed position is that the petitioner entered into an agreement for sale dated December 04, 2007 with Sree Sree Partha Sarathi Developers, represented by its proprietress Smt. Pratima Bagchi, and the landowner, in respect of Flat No. 4D at Premises No. 74A, Barrackpore Trunk Road, and paid part of the consideration. The gravamen of the allegation against the petitioner is that a sum of Rs. 3,30,750/-, paid in two instalments of Rs. 2,00,000/- and Rs. 1,30,750/- on March 31, 2010 and November 05, 2010 under money receipts issued by the signatories of M/s Trinity Associates, was never received by the developer. It is further alleged that the petitioner suppressed that the accused no. 2, her husband, is a partner of that firm. Even accepting these allegations in their entirety, the petitioner is the purchaser and the developer is the seller. There is no allegation that any property of the complainant

or the developer was entrusted to the petitioner, or that the petitioner dishonestly misappropriated it. The essential ingredient of entrustment under Section 406 IPC is therefore wholly absent.

24. The matter regarding, payment of balance amount by the petitioner to the real owner, execution and registration sale deed with regard to the similar flat booked on the basis of same agreement for sale dated 04.12.2007 decided by various fora, the same cannot be re-open by initiation of criminal case. Furthermore, dispute regarding payment made in the year 2010 but the complaint lodged on January 31, 2022 after expiry of 12 years is clear bar. No delay has been explained by the complainant in the present case in hand. The complainant tried to convert the civil dispute into criminal for recovery of money dues. The same proceeding is not permissible and/or unsustainable in law.

25. Apart from the aforesaid facts, the complainant did not disclose the facts of civil proceedings pending and disposal before the different fora and his participation in the said proceedings is fully suppression of facts and misleading to the court. Such suppression would, definitely, a good ground for quashing of the proceeding. The complainant tried to colour the civil disputes into the criminal criminality though the case purely falls in the category of civil in nature as such, if such proceeding is allowed to be continued then it would be an irreparable harm and injury for the petitioner. Therefore,

this Court can exercise the inherent jurisdiction provided under Section 482 of the Cr.P.C. to quash the proceedings initiated frivolously, maliciously, and vexatiously.

26. Accordingly, **CRR No. 1287 of 2022** is, thus, **allowed**. Connected application, if any, stands disposed of.

27. Let a copy of this Judgment be sent to the Learned Court below for information.

28. Interim order, if any, stands vacated.

29. Proceeding being G.R. Case No. 541 of 2022 arising out of Tala P.S. Case No. 25 dated March 07, 2022 under Sections 120B/406/420 of the Indian Penal Code, 1860 pending before the Court of the Learned Additional Chief Judicial Magistrate, Sealdah at South 24 Parganas is hereby quashed insofar as the petitioner is concerned.

30. All parties will act on the server copies of this Judgment duly downloaded from the official *website* of this Hon'ble High Court.

31. Urgent photostat certified copy of this Judgment, if applied for, is to be given as expeditiously to the parties on compliance of all legal and necessary formalities.

(Ajay Kumar Gupta, J.)

(P.A.)