

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Before:

The Hon'ble Justice Anuj Singh

W.P.A. No. 21356 of 2024

Sk. Safikul Islam

-Versus-

Union of India & Ors.

For the Petitioner : Mr. Pintu Karar
Mr. Rishabh Ahmad Khan
Mr. Sabab Uddin Laskar
Md. Danish
..... Advocate.

For the State : Mr. D.N Ray, Ld. G.P.
Mr. Guddu Singh,
Mr. Sourav Haldar,
Ms. Diya Chakraborty
..... Advocate.

For the applicant in
CAN 1 of 2026 : Mr. Moyukh Mukherjee
Ms. Sagnika Banerjee
Mr. T. Pramanick
Ms. S. Basak
..... Advocate.

Heard on : 24.09.2026

Judgement on : 09.10.2026

Anuj Singh, J.:

1. The petitioner has filed the instant application invoking this Court's jurisdiction under Article 226 of the Constitution of India, inter alia,

praying for quashing of Cyber Crime Police Station, Hooghly Rural, Case No. 6 of 2024 dated 15.8.2024 was registered for investigation into the offences punishable under Section 340(2)/353(1)(b)(2) and Section 352 of the Bharatiya Nyaya Sanhita, 2023, which was based on a written complaint dated 15.8.2024 lodged by one, Subhashish Chakraborty.

2. A bare perusal of the letter of complaint dated 15th August 2024 would reveal that the complainant saw a video being broadcasted by Shafiq Islam, the host of Aram Bagh TV, in which a female voice was heard to be stating that the activities of the RG Kar Hospital in Kolkata are in violation of rules and regulations. The de facto complainant alleged that this dialogue was false and fabricated and also stated that a protest rally is being organised within the Hospital. It is further alleged that dissemination of such news disrupts peace and harmony, that such spreading of lies falls under section 420 of IPC, and that such propaganda creates social unrest. The de facto complainant then prayed for investigation into the conduct of 'Aram Bagh TV' regarding such false and misleading reporting and to prevent breakdown of law and order.
3. It is stated that on the basis of the above allegations, the Cyber Crime Police Station, Hooghly Rural, Case No. 6 of 2024 dated 15.8.2024 registered for investigation into the offences punishable under Section 340(2)/353(1)(b)(2) and Section 352 of the Bharatiya Nyaya Sanhita, 2023. It is stated that the investigation of the said case is still going on.
4. The petitioner has preferred the instant application *inter alia* praying for quashing of the above referred F.I.R. The petitioner claims to be a journalist who has a YouTube news channel, popularly known as Arambagh TV. The petitioner claims that the said YouTube channel contains news and critical analysis of the functioning of the State

Government. It is contended by the petitioner that before starting the said online channel, the petitioner was employed with Calcutta Television Network and ran a local vernacular newspaper namely, Arambag Barta.

5. The petitioner contends that the instant FIR is one of many false criminal cases filed against him and that the Petitioner has been similarly implicated in several other criminal proceedings since the year 2005, as his views and opinions were perceived to be motivated against the then State Government.
6. The petitioner further submits that during the pendency of the present writ petition, the investigating officer of the case, in course of purported investigation of the said case, proceeded to freeze a Bank account of the petitioner, bearing account no. 35126107782 maintained with State Bank of India under orders of the Additional Chief Judicial Magistrate, Hooghly. It is submitted that by reason of the aforesaid order of freezing the bank account of the petitioner, the petitioner's livelihood has been affected.
7. In such circumstances, the petitioner moved the present petition and prayed for an interim order of stay of all further proceedings in the said F.I.R. Accordingly, by an interim order dated 4th October 2024 passed by this court, all proceedings in connection with the instant case were stayed. By the said order, the respondent police authorities were directed not to take any coercive action against the petitioner and were further directed to immediately de-freeze the said bank account, permitting the petitioner to operate it. The order, however, granted liberty to the investigating officer of the case to obtain a detailed statement of the transactions pertaining to the said account maintained with the State Bank of India. It is stated that the investigation of said case has remained stayed ever since and that no charge sheet has been submitted in the case.

8. While the matter stood thus, the de facto complainant has intervened in the present proceeding by filing C.A.N. No. 1 of 2026, *inter alia* praying for his impleadment as a party to the present proceeding. The de facto complainant has further submitted that, in the event the aforesaid FIR is quashed, the de facto complainant shall have no objection to the same. It is submitted that the de facto complainant had lodged the above complaint under a misunderstanding of fact and that the applicant does not intend to pursue the said criminal proceeding any further. On consent of the parties CAN 1 of 2026 is allowed.

9. It appears that both the de facto complainant as well as the petitioner have approached this court with a joint prayer for quashment of the F.I.R. criminal case, investigation into which is going on.

10. Although the de facto complainant has conceded to the prayer for quashing of the aforesaid FIR, the same cannot be quashed merely on such concession of the de facto complainant. It is necessary to carefully examine the complaint which resulted in registration of the instant FIR to ascertain whether the same discloses any cognizable offence.

11. It is now well settled that the power of the High Court to quash an FIR may be exercised under Article 226 of the Constitution of India, as well as under its inherent jurisdiction under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023. In *State of Haryana v. Bhajan Lal (1992) Supp (1) SCC 335*, which itself arose from a proceeding under Article 226 of the Constituion, the Supreme Court, after considering *RP Kapoor v. State of Punjab, AIR 1960 SC 866*, laid down the broad categories of cases under which such power may be exercised, either to prevent abuse of the process of any court or otherwise secure the ends of justice.

12. It is equally well settled that the aforesaid power should be exercised sparingly and with circumspection. However, the Court would be justified in quashing a proceeding if its initiation or continuation amounts to an abuse of process of Court. When a proceeding is sought to be quashed, it is permissible to look into materials to assess what the complainant has alleged and whether any offence is made out, even if the allegations are accepted in their totality.

13. The question whether an FIR may be quashed, relying upon the de facto complainant's willingness, also requires consideration. In ***Gian Singh v. State of Punjab (2012) 10 SCC 303***, the Supreme Court has held that the High Court may quash a proceeding involving non-compoundable offenses where the dispute is predominantly of private or civil nature and where the possibility of conviction is so remote that the continuation of the proceeding would be oppressive. The Supreme Court has, however, cautioned that such power may not be exercised in offenses involving heinous and serious offenses, or those offenses which have a serious impact on society or are against the State.

14. Based on the above settled principles of law, the allegations made in the subject affair are now examined.

15. The FIR has been registered for investigation into the offenses punishable under Section 340(2), 353(1)(b)(2) and Section 352 of the BNS.

16. Section 340(2) provides that when a person fraudulently or dishonestly uses a document or electronic record as genuine, which in reality is forged or that person had reason to believe that the same is

forged, he would be punished as if he had forged the document himself. The relevant excerpt of the provision is produced herein:

“340.Forged document or electronic record and using it as genuine.—

...

(2) Whoever fraudulently or dishonestly uses as genuine any document or electronic record which he knows or has reason to believe to be a forged document or electronic record, shall be punished in the same manner as if he had forged such document or electronic record.”

17. Section 353(1)(b) provides that any person who makes, publishes, or circulates any statement, false information or rumour with the intent to cause fear or alarm to the public or induces any person to commit an offence against the State, then he would liable to punishment extending to 3 years or with fine or both. Section 353(2) provides that any person who makes, publishes or circulates any statement or report containing false information, rumour or alarming news, including through electronic means, with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, then he would be liable to punishment extending to 3 years or with fine or both. Relevant excerpt of the provision is produced herein:

“353.Statements conducing to public mischief.—(1) Whoever makes, publishes or circulates any statement, false information, rumour, or report, including through electronic means-

...

(b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or againstthe public

tranquillity; or...shall be punished with imprisonment which may extend to three years, or with fine, or with both.

...

(2) Whoever makes, publishes or circulates any statement or report containing false information, rumour or alarming news, including through electronic means, with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both."

18. Section 353 deals with intentional insult to provoke any person to break the public peace shall be punished under the provision.

"352.Intentional insult with intent to provoke breach of peace.—Whoever intentionally insults in any manner, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punishedwith imprisonment of either description for a term which may extend to two years, or with fine, or with both."

Analysis of the contents of the FIR vis-a-vis the penal provisions under the statute

19. The de facto complainant in this case is a viewer of the programme broadcasted by the petitioner. The allegations, as narrated above, proceed entirely on the premise that the de facto complainant believes/feels the same to be false. A belief that a report is false, without any further statement attached thereto, cannot be considered

to be an allegation from which an offence under the penal statute can be inferred.

20. As regards Section 340(2) BNS, the complaint does not allege that any document or electronic record was forged, or that the petitioner used any forged document or electronic record as genuine. The letter of complaint proceeds on an allegation of fraud and/or cheating. This court does not find any element of the offence of cheating in the present complaint or of forgery as alleged.
21. With regard to Section 353(1)(b)(2), the complaint does not identify any specific statement in the video as false, nor is it alleged that the broadcast was made with the intent to cause fear or alarm to the public, in such a way that any person may be induced to commit an offence against the State or against public tranquillity. Neither is it alleged that the broadcast was made with the intent to create or promote feelings of enmity, hatred or ill-will between different communities. Further, as regards Section 352, the complaint does not allege that the Petitioner intentionally insulted anyone to provoke them to break the public peace. Thus, the elements required for offences under Sections 353(1)(b) and 353 are not found in the present case.
22. This court finds that even if the allegations made in the letter of complaint are accepted in their entirety and believed to be true, no ingredients of the offences punishable under sections 340(2), 353(1)(b)(2) and Section 352 of the BNS are remotely found in FIR.
23. It is evident that since the allegations taken on the face of the FIR and taken at its face value do not constitute any offence or make out a case against the accused, there is no question of permitting the said proceeding to continue any further.

24. It is also evident that the said criminal proceeding is manifestly attended with malafide and/or the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused.
25. In view of the aforesaid, and particularly in view of the fact that the de facto complainant is no longer willing to pursue the said prosecution any further or support the prosecution case even if a purported charge sheet is submitted in the court below, the continuation of the present proceeding would be a sheer abuse of the process of law. It is required to be nipped in the bud, without any further delay.
26. The Court has examined the complaint independently of the de facto complainant's subsequent statement contained in CAN 1 of 2026. The allegations relate to a publication said to affect public order; its prosecution cannot be brought to an end merely because the complainant no longer wishes to pursue it. The present conclusion is entirely on basis of the allegations in the complaint, taken at their face value. This Court finds they do not disclose the essential ingredients of the offences for which the FIR was registered. This Court expresses no finding on the truth or falsity of the contents of the video or the allegations made against it .
27. In view of the aforesaid discussion, Cyber Crime Police Station, Hooghly Rural, Case No. 6 of 2024 dated 15 August 2024, and all proceedings arising therefrom, are hereby quashed. Any bail bond furnished by the petitioner in connection with the said case stands discharged
28. Let a copy of this order be transmitted to the jurisdictional magistrate for records and necessary action.

(Anuj Singh J.)