IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

PRESENT:

THE HON'BLE DR. JUSTICE AJOY KUMAR MUKHERJEE

CRR 2494 of 2025
With
IA No. CRAN 2/2025, CRAN 5/2026, CRAN 6/2026
Managing Director of Bajaj Finserv & Anr.
Vs.
The State of West Bengal & Anr.

For the petitioners	:	Mr. Pratim Priya Dasgupta
	:	Mr. Om Srivastava,
	:	Mr. Amit Dey
	:	Mr. Swastik Polley
For the Opposite party no.2	:	Mr. Partha Sarathi Bhattacharyya
	:	Ms. Swarnali Saha
Heard on	:	11.06.2026
Judgment on	:	21.07.2026

Dr. Ajoy Kumar Mukherjee, J.

1. Petitioners herein have assailed the proceeding being case no.CR /561/2020 pending before learned ACJM, Berhampore, under sections

420/406/468/506/120B of the Indian Penal Code, initiated by the Opposite party (in short OP) No.2 herein.

2. The allegations as levelled in the petition of complaint against the petitioners *interalia* are to the effect that;

> *"The Respondent no.2 on 30.09.2017, purchased one mobile phone on EMI from Bajaj Finance Limited after being allured by the agents of the petitioner no.2. The complainant later on, duly repaid the loan amount and obtained no dues clearances from Bajaj Finance Limited. Subsequently, the complainant again purchased one mobile by availing EMI facility from Bajaj Finance Limited which was duly repaid on 03.04.2019 and obtained no dues clearance certificate. It is thus the Complainant reposed complete trust upon the petitioners. It has been alleged that on 09.11.2018, the complainant received one phone call wherein agents of Bajaj Finance Limited offered personal loan of Rs. 69,000/- to the Respondent no.2. The Respondent no.2 availed the said offer from the office of petitioner no.2, and an amount of Rs. 62,350/- was disbursed and a loan account was opened. Thereafter, during March, 2020 owing to lockdown declared throughout the nation, the respondent no.2 could not pay the monthly EMIs and requested the petitioner no.2 to extend the date of payment of EMIs. However, the petitioner no.2 did not adhere to such request and closed the loan account by demanding a sum of Rs.63,830/- on account of a different loan account. It has been alleged that the complainant had already paid a sum of Rs.49,369/- against the personal loan availed, whereas the petitioners usurped the said amount and raised a fresh demand which was not subsisted."*

3. Learned Court Below by an order dated 10.11.2020 took cognizance upon the aforesaid offences and thereafter asked the Inspector-in-Charge (I.C), Berhampore P.S to submit a report invoking jurisdiction under section 202 of Cr.P.C. Thereafter one Sub-Inspector of police of Berhampore P.S submitted one report and the court below after considering such report issued summon against the petitioners under section 420/406/468/506/34 of the IPC.

4. Being aggrieved by the aforesaid proceeding, learned counsel for the petitioner submits that from the complaint itself it is clear that there existed continuing commercial transaction and the complainant/opposite party no.2 had availed personal loan of Rs. 69,000/- from Bajaj Finance Limited. During the period of Covid -19 pandemic, the complainant requested for extension of time as he was facing difficulties and considering his prayer, Bajaj Finance Limited offered to convert the existing loan, thereby providing additional time to discharge the loan liability. Upon understanding the terms and conditions for the conversion, the OP no.2 herein/complainant accepted such offer. The earlier loan of Rs. 69,000/- vide loan account no. 6Q9GPL93563264 was converted with balance outstanding into a loan of Rs. 63,830/- vide loan account no.6Q9FGPGC260126. It is further case of the petitioners that apart from the said loan amount, the OP no. 2 earlier availed other financial assistance from Bajaj Finance Limited. Therefore, petitioners' contention is that there was continuous business transaction between the petitioners and the OP no.2 for a period for more than three years and the Bajaj Finance Limited disbursed loan in favour of OP no.2 and therefore his contention is that the very essence and ingredients of offence of cheating are clearly missing and the dispute is essentially of a civil in nature. The dispute revolves around claim of dues/money and payment of such dues/money which has arisen due to pure business transaction. The offence alleged under section 406 IPC or the offence of forgery has also not been made out without any specific role being attributed to the petitioners but learned court below in a mechanical manner and without applying his judicial mind, issued summons to the petitioners.

5. He further argued that learned court below had directed the IC Berhampore Police Station to submit a report, in compliance with the provision under section 202 of Cr.P.C. but the order dated 01.12.2022 reflect that report was submitted by One Sub-Inspector (S.I) namely Dulal Biswas and therefore the direction passed by the trial Court on the basis of such report vitiates, as the IC Berhampore cannot have any power to sub delegate a SI of Police to make investigation without the leave of the Court. It is also argued that the requirement under section 202 Cr.P.C. needs to be complied with great care and caution and not to be treated as an empty formality, specially when the accused persons reside beyond the jurisdiction of the said court. Therefore if the prosecution story is accepted to be gospel truth then also placements of facts singularly lacks either of the ingredients of the alleged offences. The OP no.2 has made an attempt to give an absolutely civil dispute a colour of a criminal proceeding.

6. Learned counsel appearing on behalf of the OP no.2 opposed such prayer contending that it is not in dispute that the OP party no.2 obtained loan from the said accused financial corporation but the same were duly repaid. In fact on the basis of her good civil score, this loan amount of Rs. 69,000/- was disbursed in her favour. However, during the surging period of Covid 19 pandemic, she was unable to repay her EMIs, after making due payment of two consecutive years and as such with a genuine intention to repay the rest amount, he had sent a request letter for extension of time for payment of loan on 09.06.2020. However, the same remained unanswered. The petitioners/accused persons of the financial corporation whimsically has disbursed another personal loan amount to the tune of Rs. 63,820/- thereby closing the erstwhile personal loan account without obtaining her permission in the form of any deed and/or agreement. The complainant/Opposite party no.2 herein had no previous knowledge of the same and from an auto generated message sent in the midnight, she came to learn that no amount paid by her has been credited. Thereafter when she visited the office of the Finance Company, she received complete non-cooperation. Finding no other alternative she moved before learned Consumer Forum with an intention to settle her rest due loan amount to the tune of Rs. 29,000/-. Unfortunately no one from the end of the accused/financial corporation was present on mediation process and as such the process of mediation failed. The accused/financial corporation with a *malafide* intention transferred the said disputed loan account to Asset Reconstruction Company Limited (ARCL) without any intimation. While the said ARCL started to harass in order to recover the loan amount, the complainant made contact with the petitioner but they did not make any cooperation.

7. Learned counsel for the OP no.2 further argued that from the aforesaid facts and circumstances of the case it is clear that the accused persons/petitioners have misappropriated the entire amount of 63,000/-by hatching up criminal conspiracy amongst themselves. Therefore, the proceeding should be allowed to continue in order to reveal the truth and this is not a fit case where it can be quashed invoking court's jurisdiction under section 482 of the Cr.P.C.

8. I have considered submissions made on behalf of both the parties.

9. The complainant in his complaint has categorically stated that she put signature on the later loan agreement vide loan account no. 6Q9FGPGC 260126 amounting to Rs. 63,830/-, though her case is that she was not allowed to go through the contents of the agreement and she had put signature therein on good faith. It is also not in dispute that the loan transaction between the parties was going on for a considerably period of time.

10. Before going further, let me reproduce the impugned order dated 01.12.2022

> *"Date:01.12.2022*
> *Complainant is absent by petition.*
> *One report is received from Berhampore P.S*
> *One report is received from Berhampore P.S., preferred by S.I. Dulal Biswas on perusal of the report, it is found from the said report that the investigating officer has collected the documents from the accused company. One reply of the authorized representatives of the accused company is also collected during investigation from which it appears that the complainant had requested the accused company for conversion of loan into PLCS Growth Flexi Loan vide ("LAN") 6Q9FGPGC260126 for Rs. 63,830.49/-. The said transaction has been authenticated by the customer through her registered mobile number. It appears from the documents submitted by the complainant that the accused company had given an account statement of her original loan account from where it is found that the complainant had already repaid Rs.49,979.49/- to the accused company. But in the document submitted by the accused company to the investigating officer there is no mention of the said amount already repaid by the complainant.*
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> *Considering the examination of PW-1 on S.A., the documents filed, by the complainant and the report, it appears to me that there is sufficient grounds to proceed against the accused persons under Section 406/420/468/506/34 of IPC.*
>
> *Issue process under Section 204 of Cr.P.C. against the accused persons."*

11. Therefore, from the aforesaid order it is clear that police has also reported that the complainant has requested accused company for conversion of loan into PLCS Growth Flexi Loan Vide (LAN) 6Q9FGPGC260126 for Rs. 63,830.49/-. The said transaction has been authenticated by the customer through her registered mobile number. The only allegation is that the accused company has given a statement of complainants original loan account from where it is found that the complainant though repaid 49,9079.49/- to the accused company but in the document submitted by the accused company to the investigating officer, there is no mention of the said amount, though it has already been paid by the complainant. Therefore, the allegation reflects only about demand of excess amount of money by the finance company alleging that said amount has not been paid. On perusal of the complaint and the averments made therein, I do not find any ingredient to substantiate the offence of forgery. The complaint is conspicuously silent with regard to the nature of the documents allegedly forged by the petitioners and /or there specific role in manufacturing or forging any such document. The essence of common intention to do an illegal act before or after commission of offence has not been stated by the OP no.2. Therefore, the dispute between the parties is purely civil in nature. Although from the facts and circumstances of the case and the arguments placed before the Court, it can be said that regarding adjustment of loan amount there might be a conflict between the parties but I am unable to appreciate the petitioners contention that it attracts any criminality, as a penal statute cannot be expanded by using implications. Section 464 IPC makes it clear that only one who makes a false document can be held liable under the aforesaid provision. Here the complainant has admitted his signature in the later loan agreement in the complaint and there exists no ambiguity and therefore, the contention of the OP no.2 in respect of forgery are contrary to the settled provisions of law. In fact the Opposite party no.2 herein is not remediless. If she has any claim of demanding excess money by the petitioners/accused persons she has a common law remedy of instituting a suit challenging the legality and validity of such claim subject to the other provisions of laws, but by no stretch of imagination the allegations and the material available in the record attract the offences as alleged in the complaint.

12. In ***M/S Indian Oil corporation Vs. M/S NEPC India Limited and Ors.*** reported in **(2006) 6 SCC 736** the supreme Court condemned the growing trend in business circle to convert purely civil dispute into criminal cases . Para 13 and 14 reads as follows:-

> ***13.*** *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 breakdown 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 through criminal prosecution should be deprecated and discouraged. In G. Sagar Suri v. State of U.P. [(2000) 2 SCC 636 : 2000 SCC (Cri) 513] this Court observed: (SCC p. 643, para 8)*
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> *"It is to be seen if a matter, which is essentially of a civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which the High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this section has to be exercised to prevent abuse of the process of any court or otherwise to secure the ends of justice."*
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> ***14.*** *While no one with a legitimate cause or grievance should be prevented from seeking remedies available in criminal law, a complainant who initiates or persists with a prosecution, being fully aware that the criminal proceedings are unwarranted and his remedy lies only in civil law, should himself be made accountable, at the end of such misconceived criminal proceedings, in accordance with law. One positive step that can be taken by the courts, to curb unnecessary prosecutions and harassment of innocent parties, is to exercise their power under Section 250 CrPC more frequently, where they discern malice or frivolousness or ulterior motives on the part of the complainant. Be that as it may.*

13. It also needs to be mentioned that taking cognizance of an offence or issuance of process under section 204 of the Cr.P.C. is not a mechanical process. In the instant case the investigation was neither done under section 202 Cr.P.C. by a competent person, nor it was conducted in right direction. Criminal law cannot be set into motion in a routine manner. The order of a magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He must examine the nature of allegations made in the complaint and the initial deposition along with documents supplied in support thereof and he cannot act as silent spectators at the crucial stage. The order impugned itself discloses that alleged demand of excess money or counter allegations of dues which has not been paid in the premise of continuous business transactions between the parties for a period of more than three years, does not make out the alleged offences.

14. In ***M/S Pepsi Foods Limited and another Vs. Special Judicial Magistrate and Ors.*** reported in **(1998) 5 SCC 749** the Apex Court held as follows:-

> ***28.*** *Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. The Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.*

15. Therefore, there is nothing on record to show that the complainant has made out any case for issuance of summon against the petitioners under section 406/420/468/506/34 IPC for the reasons discussed above.

16. In view of above **CRR 2494 of 2025** is **allowed**.

17. The impugned proceeding being CR case no. 561 of 2020 presently pending before the learned court of ACJM Berhampur is hereby quashed.

Urgent Xerox certified photocopies of this Judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(DR. AJOY KUMAR MUKHERJEE, J.)