

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

BEFORE:

THE HON'BLE JUSTICE SHAMPA DUTT (PAUL)

CRR 2073 of 2024

**Vijay Prashad @ Vijay Pratap Prasad
Vs.**

The State of West Bengal & Anr.

For the Petitioner : Mr. M. Ali, Adv.

For the State : Mr. Amitabha Karmakar, Adv.
Mr. Pronojit Roy, Adv.

Judgment reserved on : 28.08.2026

Judgment delivered on : 17.09.2026

SHAMPA DUTT (PAUL), J.:-

1. The revisional application has been preferred praying for quashing of proceeding in G.R. Case No. 4693 of 2013 arising out of Dasnagar Police Station Case No. 95 of 2013 dated 28.06.2013 under sections of 420/406/477/468/471/120B the Indian Penal Code, 1860 (Previous, Jagacha PS Case No. 307 of 2012 dated 20.06.2012), pending before the Court of Learned 4th Judicial Magistrate, Howrah, against the petitioner herein.
2. **The petitioner's case is that he works as a Care Taker in the building "Himalaya Plaza" situated at Baba Panchanan Nagar, Durgapur Express Highway Crossing, Post office and Police Station-Dankuni, Hooghly.**

3. The de facto complainant herein has filed the present case, on the allegation that the accused persons namely Budhaditya Chattopadhyay and his wife Soumi Chattopadhyay being the Directors of WERIED GEMS & JEWELLERIES PVT LTD were successfully running diverse business in various part of India. In course of its business activities, the complainant as well as his other co-directors, in the month of July 2011 came across one Budhaditya Chattopadhyay and his wife Soumi Chattopadhyay who introduced themselves as Scientist as well as Consultants & partners of a Firm named as 'ELIXIR EXCELLENZA' having its office at Himalaya Plaza, Room No. C-13A, Delhi Road, Baba Panchanan Nagar, Dankuni, Hooghly-712331. They claimed themselves to be the expert in the field of consultancy services. Being induced by such representations made by them and following various presentations given by them, his company entrusted the job of setting up a Medical College & Hospital at Balasore, Orissa. A detailed project report for such Medical College & Hospital was prepared by such persons namely Budhaditya Chattopadhyay and his wife Soumi Chattopadhyay and they gave total project estimate of Rs. 80 Crores. Following such estimate and believing the representations of such persons to be true, the company on different dates, made a total payment of Rs.2,98,000.00/ only to the said persons. All such payments were made from time to time from head office. The complainant had utmost faith on such persons and rarely visited the site to see the progress of

such work. The name of the proposed Medical College & Hospital was given as SOVEREIGN MEDICAL RESEARCH INSTITUTE & HOSPITAL. In the month of January 2012 when the complainant along with other Directors and personnel went on a sudden visit to the site where such Hospital was proposed to be set up, they found that the progress of the work was highly unsatisfactory.

4. When the complainant verified the papers and documents supplied to them, they found the some of those were also fabricated and forged. Immediately the complainant contacted Budhaditya Chattopadhyay and his wife but they failed to give any satisfactory answers. The accused persons promised to give detailed statements of accounts of the expenses incurred in such project along with relevant bills, vouchers and documents, but they quit the project and disappeared. On enquiry, they admitted that they had no experience in such work and agreed to return back the money. Accordingly they refunded a sum of Rs 30,00,000/- which had been, duly received by the complainant. They also handed over two A/C payee cheque bearing No-049457 dated 22/03/2012 & 049458 Ct 22/03/2012 of Rs 1,00,00,000/- each but such cheques were returned by the bankers of the draw with the endorsement 'title of account wrong/incomplete'. The said accused persons on being contacted pressed for not initiating any legal proceedings and again gave one cheque bearing no 049459 dated

20/03/2012 of Rs.2.30.000,00/- only, which was again dishonored on the score insufficient fund.

5. The petitioner herein was not named in the FIR and is in no way connected with the principal accuseds.
6. The petitioner further states that the principal accuseds, Budhaditya Chattopadhyay and his wife Soumi Chattopadhyay, rented a space in the said "Himalaya Plaza" building and set up a office there. On 25.06.2012 the police personnel of Jagacha PS, visited the said "Himalaya Plaza" and **the petitioner being the Care Taker of the building was asked to accompany them to the Jagacha Police Station** and thereafter he was arrested in connection with the present case without any allegations or involvement.
7. On hearing the learned Counsel for the petitioner and on perusal of the materials on record and in the case diary placed by the State and also the documents annexed to the revisional application, it appears that **the petitioner herein is not a party to the tenancy agreement between the principal accused and the complainant in this case.**
8. It appears from the order granting bail to the petitioner herein, that the trial Court has categorically held as follows:-

*"I find that **no specific allegation transpires against the accused Vijay Prosad being so far as the question of cheating is concerned.** The previous acts are being committed by the FIR named accused, with no role by the above named accused. Even the cheques in question were also issued by the said FIR named accused."*

9. **The petitioner herein has not been named in the application under Section 156(3) of the Code of Criminal Procedure, on the basis of which the present case was initiated and is thus not FIR named.**
10. **It appears that the petitioner has been implicated, without there being any prima facie ingredients for the offences alleged against him.**
11. In ***State of Haryana and Others v. Ch. Bhajan Lal and Others, 1992 Supp. (1) 335***, the Supreme Court held:-

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do

not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

- 12.** The present case is thus clearly covered by the guidelines in ***State of Haryana vs Bhajanlal (Supra) (Para 102)***.
- 13. CRR 2073 of 2024 is allowed.**
- 14.** The proceeding in G.R. Case No. 4693 of 2013 arising out of Dasnagar Police Station Case No. 95 of 2013 dated 28.06.2013 under sections of 420/406/477/468/471/120B the Indian Penal Code, 1860 (Previous, Jagacha PS Case No. 307 of 2012 dated 20.06.2012), pending before the Court of Learned 4th Judicial Magistrate, Howrah, **is hereby quashed in respect of the petitioner namely Vijay Prashad @ Vijay Pratap Prasad.**
- 15.** All connected applications, if any, stand disposed of.

- 16.** Interim order, if any, stands vacated.
- 17.** Copy of this judgment be sent to the learned Trial Court for necessary compliance.
- 18.** Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)