IN THE HIGH COURT AT CALCUTTA

CRIMINAL REVISIONAL JURISDICTION

APPELLATE SIDE

Present:-

HON'BLE JUSTICE CHAITALI CHATTERJEE DAS.

CRR 1619 OF 2023

RAJAT MAITY

VS.

THE STATE OF WEST BENGAL & ANR.

For the Petitioner	**:**	**Mr. Ranadeb Sengupta, Adv.** **Mr. Sachit Talukdar, Adv.** **Mr. Tirtharaj Ghosal,Adv.**
For the State	**:**	**Mr. Kallol Mondal, Ld.P.P.** **Mr. Anamitra Banerjee, Adv.** **Mr. Pritam Roy, Adv.**
For the Opposite Party no. 2	**:**	**Mr. Apan Saha, Adv.**
For the Opposite Party no. 2 (CHCLSC)	**:**	**Mr. Bibaswan Bhattacharya, Adv.** **Mr. P. Roy, Adv.**

Heard On	**:**	**31.08.2026**
Judgement on	**:**	**13.11.2026**
Uploaded on	**:**	**13.11.2026**

CHAITALI CHATTERJEE DAS, J.:-

1. This instant revisional application has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of the proceeding being Sessions case no. 461/2022, arising out of Kolaghat Police Station case no. 258 dated 19.5.2022, under Sections 420/406/413/468/477A/120B of the Indian penal code, 1860 presently pending before the Learned Additional Sessions Judge, 1st Court at Tamluk, Purba Medinipur.

Fact of the case

2. The petitioner was employed by a company named and styled as Adecco India Pvt. Ltd. in the month of April, 2017. As part of his employment, the petitioner was deputed to a company named and styled as Atyati Technologies Pvt. Ltd. After taking into account of the petitioner's work record, the company appointed him as process associate at their organisation with effect from 1.10.2021. In view of his performance and contribution to the organisation, the petitioner was also rewarded with a certificate appreciating the same. A complaint was lodged by the Opposite Party no.2 before the Kolaghat Police Station against one Amit Sahoo, UCO Bank Mecheda branch and Atyati Technologies Pvt Ltd. having its registered office at Bangalore, alleging of commission of the offences punishable under the above mentioned Sections of the Indian Penal Code. It was the allegation of the opposite party no.2 that a customer service point (CSP) of UCO Bank, Mecheda Branch was functional in the village of Opposite Party No.2, and it

was run and managed by one Amit Sahoo of Khanjadapur. She had been visiting and executing banking transactions through the customer service point. As an abundant precaution track to executing transactions from the said service point, she enquired about the same form from the Mecheda branch of the UCO Bank in order to ascertain whether at all, the customer service point belong to the said Bank and branch. The Branch manager of the bank assured her that the service point is under the control of the UCO Bank, Mecheda Branch and it was set up for the convenience of the customers. She was further assured that banking transactions through the state customer service point would be safe and secure and being assured about the same, she deposited a sum of ₹39, 968/- through the said customer service point. Subsequently on 6.5.2022 when she visited the service point to withdraw money, it was found that the customer service point is under lock and key. After that she went to Mecheda Branch and after obtaining a withdrawal slip, she realised that her account did not have funds. It was further found from the withdrawal slip that on 1.5.2022, Amit Sahoo had withdrawn ₹25,000/- from her account. She alleged that bank manager expressed his helplessness by stating that the agreement entered into by the head office of the UCO Bank with Atyati Technology to manage the customer service point and Amit Shahoo, who used to manage the operation of the customer service points have engineered the entire fraud.

3. On the basis of such complaint, Kolaghat Police Station case started against Amit Shaoo, UCO Bank Mecheda Branch and Atyati Technologies Private Limited. It is the further case of the petitioner that pursuing to a similar fraud having been committed by Amit Shahoo at said customer service

point, Tamluk Police Station case no. 379 dated 12.5.2022, under Section 420/406/409/467/468/471/472/473/474/475/477A was registered on the basis of a complaint lodged by Sabina Bibi. In connection with the said proceeding the petitioner was arrested on 17.11.2022 and on completion of investigation, charge sheet has been submitted against other accused persons, including the petitioner and the role attributed was only failure to perform his duty of monitoring the functioning of the said customer service point diligently.

4. The petitioner was shown arrested on 25.11.2022, and he constrained to file an application for bail and was released on bail on 1.2.2023. In the charge sheet submitted in respect of the complaint of the opposite party no. 2, the only allegation surfaced against the petitioner was failure to monitor properly the functioning of the customer service point that was managed by Amit Sahoo. The learned Chief Magistrate, Tamluk, Purba Mednipur by an order dated 16.12.2022, committed the case to the learned Sessions Judge in terms of section 209 of Cr.P.C, 1973 and by an order dated 22.12.2022, the Learned Sessions Judge took cognizance and transferred the same to the Court of learned Additional Session Judge, 1st Court, Tamluk for trial and disposal. By an order dated 6.3.2023, the Learned Judge framed Charge against the petitioner and other accused for commission of offences punishable under Section 420/406/413/468/477A/120B of the Indian Penal Code.

5. The petitioner received the copies of the documents accompanying the charge sheet in terms of Section 207 of Code of Criminal Procedure, 1973

and found no material which indicates the complicity of the petitioner either in the nature of conspiracy or any money trail or forgery and falsification of accounts and doesn't does not appear to have any foundation for proceeding against the petitioner. Accordingly filed this revisional application.

Submissions

6. The learned Advocate representing the petitioner argued that the petitioner wasn't an employee of Atyati Technologies Private Limited, responsible for monitoring a customer service point UCO Bank's Mecheda Branch. The present petitioner was not named in the FIR and was implicated in the matter during investigation only and in the charge sheet also excepting dereliction of duty, no other allegation has been levelled against him. It is further submitted that the test to be applied at the stage of consideration of charges that of grave suspicion and a prima facie case is being made out. However, from perusal of the materials and record as collected in course of investigation, it is evident that the test was not been satisfied qua the petitioner and the learned Judge grossly erred in framing charge against the petitioner. The essential ingredients to attract Section 420 of the Indian Penal Code, 1860 are (i) dishonest inducement to deliver property or to make, alter, or destroy any valuable security or anything which is sealed or is capable of being converted into a valuable security and (ii) *mens rea* of the accused at the time of making the inducement. The ingredients necessary to make out an offence under Section 406 of the Indian penal code are not followed as no property was entrusted on the present petitioner or there has been any misappropriation or breach of contract or violation of any law. If

anything can be found that should be applicable not against the present petitioner, but against the other accused in terms of the allegations levelled against them. In addition no allegation to attract Section 413 of IPC as no prior complaint was in existence against him. That apart question of Forgery for the purpose of cheating can be found and the charge under Section 477 A is not applicable against him.

7. On behalf of prosecution objection has been raised since the charge sheet has been submitted on conclusion of investigation and the learned Judge has framed the charges against the present petitioner after hearing the parties and hence prayed that in order to test the veracity of the materials collected against him, he must face the trial. It is further submitted that the control of investigation of the case was assumed by CID, West Bengal as per order of Crime West Bengal org. no. 558(A)/CS dated 21.6.2022 and the DDI, Purba Medinipur is the inspector who investigated the case. It is further submitted that the de facto complainant is a village lady and a fraud perpetrated over 3000 people and also there is further scope of investigation. Therefore, at this stage, if the prayer of the petitioner is allowed, the trial would be severely affected.

Analysis

8. Heard the submissions. The case was initiated on the basis of a complaint lodged by one Rama Ghorai being a customer of UCO Bank, Mecheda Branch with specific allegation against one Amit Sahoo for withdrawal of ₹25,000/- from her account on 1.5.2022, and further that several person were cheated by him. According to her, Amit Sahoo along with UCO bank

Mecheda branch and Atyati Technologies Private Limited, made conspiracy and cheated her money and misappropriate the same. It is seen from the case diary that subsequently the control of investigation of this case was assumed by CID West Bengal on 21.6.2022 as per order of Crime West Bengal detailing inspector, Arunjit Ghosh, DDI Purba Medinipur as IO of this case. He retired from his service on 31.12.22 and subsequent investigating officer took up the further investigation as per order of superiors, CID W.B vide Crime WB Org. no. 713/1/CS dated 30/12/2022.

9. It is evident that the principal accused named in the written complaint is Amit Sahoo and the present petitioner is an employee of Atyati Technologies Private Limited Mecheda Branch whose name has been surfaced in course of investigation. The petitioner originally joined in a company name and styled as Adecco India Private Limited in the year 2017, and as part of his employment, he was deputed by the said company to Atyati Technologies Private Limited. Subsequently taking into his work record, he was deputed to the said company and was appointed as a Process Associate at their organisation with effect from 1.10.2021. The petitioner was also rewarded with a certificate appreciating his performance. The connection between Amit Sahoo and the present petitioner is drawn as a customer service point of UCO Bank Mecheda Branch was functional at the village of the complainant and it was run and managed by Amit Sahoo who was also engaged in the operation of a different Customer Service Point at UCO Bank Mecheda Branch in a village which fell under the jurisdiction of Tamluk Police Station and another case started against him for causing similar

nature of fraud. In course of Investigation it was found there was an agreement executed between Amit Sahoo and Atyati Technology Private Limited. The Investigating authority collected the necessary copies of documents and considering the involvement of the number of victims who have suffered due to a fraud committed by said Amit Sahoo and CSP, which was later on shut down, the investigation was taken control of by the CID, West Bengal.

10. In the meantime, on the basis of another complaint the Tamluk Police Station case started against the same person. The materials collected in course of investigation specifically attributed the present petitioner being unable to maintain his duty properly as a responsible person to look after the CSP, as per report of the Territory manager of Atyati Technologies Private Limited Mecheda Branch. Names of several of Bank officials also surfaced during investigation. Since the present petitioner was arrested in connection with the other complaint on 17.11.2022, and enlarged on bail by an order dated 18.01.2023 passed by the Hon'ble Division Bench of this Court, he was shown arrested on 25.11.2022 in the instant case. In course of investigation, it was revealed that said Atyati Technology Private Limited had been engaged as business correspondences to look after the said CSP, which was run by accused Amit Sahoo, and it is also clear that the present petitioner and Sourav Sinha were entrusted with responsibility to look after the CSP of Amit Sahoo from time to time.

11. In the present case, the date was fixed for consideration of charge on 6.3.2023 and the present petitioner was present and the principal accused

was also produced from JC Jail custody. The learned Magistrate considered the submissions made by the learned prosecution and the defence counsel and after going through the materials on record and the documents was of the opinion that there is good ground for presuming that the accused persons have committed alleged offences punishable under those sections of the Indian penal code and date was fixed for production and evidence of CSW1.

12. Fact remains in the present case that the charge-sheet was submitted against the petitioner both under Section 420/406 along with other penal charges and the Learned Magistrate also framed the charge on these sections. In view of the celebrated decision of the Hon'ble Apex Court in ***Delhi Race Club (1940) Limited vs. State of Uttar Pradesh***[1], both the charges cannot go simultaneously. It was held therein which has been reiterated in the case of ***Arshad Neyaz Khan vs State of Jharkhand & Anr.***[2] that-

> *"This Court in* ***Delhi Race Club (1940) Limited vs. State of Uttar Pradesh, (2024) 10 SCC 690*** *observed that there is a distinction between criminal breach of trust and cheating. For cheating, criminal intention is necessary at the time of making false or misleading representation i.e. since inception. In criminal breach of trust, mere proof of entrustment is sufficient. Thus, in case of criminal breach of trust, the offender is lawfully entrusted with the*

[1] (2024) 10 SCC 690
[2] 2025 INSC 1151

property, and he dishonestly misappropriates the same. Whereas, in case of cheating, the offender fraudulently or dishonestly induces a person by deceiving him to deliver a property. In such a situation, both offences cannot co-exist simultaneously. Consequently, the complaint cannot contain both the offences that are independent and distinct. The said offences cannot co-exist simultaneously in the same set of facts as they are antithetical to each other."

13. The Learned Sessions Court framed the charges against both the accused persons not individually but collectively when admittedly the role of the petitioner was to supervise and monitor the CSP. Therefore it is very much necessary that this Court should be very much cautious in exercising the inherent jurisdiction to quash the proceeding at the threshold when on completion of investigation a charge sheet has been submitted and the Learned Court has framed the charges.

14. Considering the nature of allegation and the evidences collected during investigation this Court is not satisfied to accept that the role attributed to the petitioner can be equated with that of the principle accused, particularly in respect of the charge framed against him under Section 406 IPC in as much as no property was ever entrusted to the petitioner. The essential ingredients of entrustment which is a prerequisite for constituting an offence of criminal breach of trust under section 406 IPC is prima facie absent as he did not receive the amount of Rs. 25000/-from the particular account or from any other nor entrusted to keep any amount. No iota of

materials can be found against him with regard to the said charge. Similarly the charge has been framed against the petitioner along with the principle accused for commission of offence under Section 413 of the IPC when no ingredients to constitute the said offence can be found against him or to substantiate that he was a habitual receiver or dealer with stolen property. There is no prior complaint found against excepting the other complaint within a gap of 7 days. Nothing was rescued from this petition.

15. However in view of the existing agreement between two companies and the present petitioner being entrusted by virtue of such agreement with the responsibility to look CSP of Amit Sahoo, any negligence or failure on his part in discharge of such duties resulting in non-performance and deficiency of services cannot be viewed in isolation .Such acts may have paved the way of the principal accused person, Amit Sahoo in perpetrating such alleged offence thereby causing financial loses and hardship to several persons .In such circumstances the petitioner ought to face the trial in order to establish the nature and extent of his involvement ,particularly whether the negligence attributable to him was deliberate and intentional or merely an act of negligence .Therefore the complicity of the petitioner in the commission of offence of cheating by hatching a conspiracy cannot be ruled out at this stage .

16. In the decision of ***Haji Iqbal versus State of UP***[3]**,** where duty was laid down to the Court while assessing an application under Section 482 of the

[3] (2023) 20 SCC 209

Code of Criminal Procedure and in paragraph 15 to 17 it was observed and held that -

> *"15. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely.*
>
> *16. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not.*

> *17. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged."*

17. From the nature of the allegations and the materials collected, this court do not find any frivolous or vexatious ground for initiating such complaint against the present petitioner or it was instituted with ulterior motive for wreaking vengeance as there are more than one complaint against the accused persons and the customers of UCO Bank were defrauded and are the worst sufferer. On behalf of the Prosecution it was contended that if the petitioner would have looked after the CSP properly the principle accused Amit Sahoo could not commit the crimes as because any CSP runs through biometrically .Accordingly amongst the other charges the charge under

Section 120B IPC has also been slapped against the petitioner .He was the support Associate of Atyati Technologies Pvt. Ltd and had an important role to discharge. So far the charge framed under Section 477/468 of IPC also no materials to attract Section 468 can be found as the petitioner was not an employee of UCO Bank and certainly question of forgery in respect of document does not arise. But with regard to forging of electronic record in question the petitioner was entrusted to monitor and supervise the functioning of Amit Sahoo, the principle accused. At the threshold his involvement cannot be negated specially when charge under Section 120B IPC is framed against him.

In order to bring home the charge under Section 477A IPC the accused must be a Clerk or Officer, Servant under employment but the petitioner does not come within any of such category.

18. This Court at this stage find it pertinent to refer the decision of ***K.R Purushothaman vs State of Kerala***[4] where it was observed and held that-

> *"13. To constitute a conspiracy, meeting of mind of two or more persons for doing an illegal act or an act by illegal means is the first and primary condition and it is not necessary that all the conspirators must know each and every detail of conspiracy. Neither it is necessary that every one of the conspirators takes active part in the commission of each and every conspiratorial acts. The agreement amongst the conspirators*

[4] (2005) 12 SCC 631

can be inferred by necessary implications……."

The Hon'ble Supreme Court in the said case further observed that-

"14. *The suspicion can not take the place of a legal proof and prosecution would be required to prove each and every circumstance in the chain of circumstances so as to complete the chain. It is true that in most of the cases, it is not possible to prove the agreement between the conspirators by direct evidence but the same can be inferred from the circumstances giving rise to conclusive or irresistible inference of an agreement between two or more persons to commit an offence. It is held in* ***Noor Mohd. v. State of Maharashtra, AIR (1971) SC 885****, that:*

" in most cases proof of conspiracy is largely inferential though the inference must be founded on solid facts. Surrounding circumstances and antecedent and subsequent conduct, among other factors, constitute relevant material.""

In the light of the above it is settled that in order to prove the charge under Section 120B IPC trial is necessary.

Conclusions

19. Having regard to the principles settled by the Hon'ble Apex Court as discussed above and in the light of the observations made therein and after careful consideration of the factual matrix of the present case this court is of the opinion that the charges under section 406/413/477A IPC are not

sustainable against the petitioner since devoid of any such ingredients but so far the charge under Section 420/468/120B IPC are concerned this court is not inclined to quash the charges which can only be decided after weighing the evidences to be adduced to prove the charges by the Prosecution.

20. Accordingly this revisional application stands allowed in part. The charges under Section 406/413/477A IPC are quashed qua the petitioner and the proceeding to continue against him with regard to the rest of the charges.

21. All connected pending applications are also disposed of.

22. Case Diary be returned.

23. All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

[CHAITALI CHATTERJEE (DAS),J.]

High Court
सत्यमेव जयते
Calcutta