

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

**PRESENT:
THE HON'BLE JUSTICE UDAY KUMAR**

CRR 2356 OF 2024

**ARUN PRASAD & ANR.
-VS-
STATE OF WEST BENGAL & ORS.**

For the Petitioners : Mr. Gunjan Kumar Singh
Mr. Rupsa Maity
Mr. Niranjana Kumar Yadav
Ms. Rima Mondal

For the State : Mr. Ramashis Mukherjee
Mr. Neel Chakraborty

For the Opposite Party No.2 : Mr. Sayan Kanjilal
Mr. Kaustav Shome

Reserved on : 19.08.2026

Pronounced on : 25.08.2026

UDAY KUMAR, J.: –

1. Law is never intended to be a weapon of harassment, nor is the criminal justice machinery designed to settle personal scores born out of civil and property disputes. When neighbourhood friction and boundary disputes escalate into civil suits, the subsequent resort to criminal prosecution, particularly when it casts a wide net over family members

regardless of their actual presence or involvement, demands the highest degree of judicial vigilance.

- 2.** This revisional application under Section 482 read with Section 401 of the Code of Criminal Procedure, 1973, brings before us a classic instance of civil litigation being sought to be reinforced through the coercive corridors of criminal law. The petitioners, comprising two brothers, one a serving soldier of the Indian Army stationed thousands of miles away, and the other a local resident, have approached this Court seeking the quashing of Uttarpara Police Station Case No. 445 of 2023 dated December 6, 2023, and the consequential chargesheet under Sections 341, 323, 504, and 506 of the Indian Penal Code (corresponding to G.R. Case No. 3095 of 2023), currently pending before the Court of the Learned Additional Chief Judicial Magistrate at Serampore. This case raises a vital question: *‘can a criminal prosecution survive against a person whose physical absence at the scene of the crime is officially certified by the State and military authorities, and can a general criminal charge be sustained when it bears all the hallmarks of a retaliatory counterblast to a pending civil dispute?’*
- 3.** To appreciate the true character of this litigation, this Court must chronologically trace the soil from which it sprouted. The seeds of discord lie in a bitter, localized neighbourhood dispute situated at Saradapally, Sector-II, Makhla, Hooghly, revolving around a narrow 4-foot common passage and drainage easement rights (Dag No. 1676/2553, Khatian No. 494, Mouza Makhla).

- 4.** Long before the initiation of the impugned criminal proceeding on a complaint lodged with the police, acute friction prevailed between the opposing families over alleged illegal constructions and the obstruction of peaceful ingress and egress. This friction formally spilled over into the civil court with the institution of Title Suit No. 470 of 2023 by the petitioners' family before the 1st Court of the Learned Civil Judge (Junior Division) at Serampore, seeking declarations and permanent and mandatory injunctions to protect their rightful use of the common passage as mentioned in the (GA) Schedule. Prior to and alongside this civil battle, police entries such as Uttarpara P.S. GDE No. 1042 dated July 26, 2023, regarding threats and physical intimidation, as well as preventive proceedings under Section 144(2) CrPC, marked the escalating hostility between the neighbours.
- 5.** Failing to secure an immediate upper hand in the civil domain, Opposite Party No. 2 (Soumitra Sankar Mukherjee) moved a private complaint under Section 156(3) CrPC, culminating in the registration of Uttarpara P.S. Case No. 445 of 2023 on December 6, 2023. The complainant alleged that on October 5, 2023, at 6:30 AM, Petitioner No. 2 (Dr. Arjun Prasad) and Petitioner No. 1 (Arun Prasad), along with unknown associates, intercepted him near Satadol Club, physically assaulted him, demanded that his sister evacuate her property, looted cash amounting to Rs. 7,500/-, and hurled dire threats.
- 6.** However, as the investigating agency rolled out its inquiry, a glaring and fatal flaw in the prosecution's narrative came to light. Petitioner No. 1, Arun Prasad, is a serving soldier in the Territorial Army. Upon official

verification, the Commanding Officer of B-Company, 25, BRTE, Imphal, Manipur, officially certified that Petitioner No. 1 was physically present on active military duty in Imphal on the exact date and time of the alleged incident. Consequently, the investigating officer recognized his complete absence and filed a Final Report / FRT (as apparent from Annexure P-3 at page 34 of the petition), effectively dropping and discharging him from the accusations. Yet, in a contradictory and mechanical exercise, the investigating officer proceeded to submit a chargesheet under Sections 341, 323, 504, and 506 IPC solely against Petitioner No. 2 (Arjun Prasad), leaving the petitioners with no other remedy than to invoke the inherent jurisdiction of this Court.

7. Assailing the continuation of these proceedings, Mr. Gunjan Kumar Singh, the learned counsel appearing for the petitioners has argued with considerable force that this criminal revision application is a *mala fide*, retaliatory counterblast engineered solely to coerce the petitioners into withdrawing their legitimate civil claims in Title Suit No. 470 of 2023 pending between neighbours, and to pressurize them in ongoing property disputes.
8. He laid intense stress on the absolute falsity and collapsed substratum surrounding the implication of Petitioner No. 1, Arun Prasad, who was on active military duty thousands of miles away on the date of occurrence. Pointing specifically to the Final Report / FRT placed on record, learned counsel demonstrated that the police's own investigation and the official records of the Indian Army established that Arun Prasad was completely absent from the locale. It was

emphasized that the filing of an FRT and the dropping of Petitioner No. 1 by the investigating officer amounts to his discharge, and maintaining him as a co-petitioner in the present revisional application though creates a technical redundancy, yet underscores the glaring falsity of the initial police case. When the foundational allegation of joint participation collapses so comprehensively, the entire superstructure of the FIR stands vitiated by malice and recklessness. It was vehemently argued that continuing any legal shadow over Petitioner No. 1, whose absence from the place of occurrence is officially verified by the Indian Army, is an egregious abuse of the process of law and deserves immediate quashing.

9. As regards Petitioner No. 2, he contended that the allegations are generalized, lack corroborative medical evidence of severe harm, and arise out of a pure civil property dispute where cross-complaints establish that the petitioners were actually the victims of aggression. Placing heavy reliance upon the monumental guidelines laid down by the Hon'ble Supreme Court in *State of Haryana v. Bhajan Lal* (1992 Supp (1) SCC 335), and specifically invoking the categories concerning proceedings manifestly attended with *mala fides* and instituted with an ulterior motive for wreaking vengeance, Mr. Singh prayed for the quashing of the entire proceeding as an abuse of the process of Court.
10. *Per contra*, Mr. Ramashis Mukherjee, learned counsel appearing for the State raised the question of maintainability of this revision, pointing out that despite Arun Prasad having been dropped from the chargesheet, he has been arrayed as a petitioner in this case. He further submitted that

once the investigating agency independently applied its mind and dropped Petitioner No. 1 from the chargesheet on the basis of the verification report of the Commanding Officer, the grievance concerning Petitioner No. 1 stands effectively redressed, and the trial must proceed unhindered against Petitioner No. 2.

- 11.** Opposing the petition, learned counsel highlighted the statements of independent witnesses recorded under Section 161 CrPC, coupled with the injury reports collected during the investigation and other materials on the case diary, to fortify his contention that they establish a robust prima facie case regarding wrongful restraint and assault specifically against Petitioner No. 2.
- 12.** Mr. Mukherjee further contended that defences such as alibi or the existence of parallel civil disputes cannot serve as grounds for stifling a criminal prosecution at the threshold under Section 482 CrPC, as these are matters exclusively within the domain of the trial court during evidence appreciation.
- 13.** Adopting and augmenting the stance of the State, Mr. Sayan Kanjilal, the learned counsel for Opposite Party No. 2 submitted that the notice under Section 41A of the CrPC, which was allegedly illegally issued by the investigating authority, was separately challenged regarding its vires before this Court in a writ petition being WPA No. 3877 of 2024, which is still pending and has no direct bearing on the criminal trial. It was further argued that the questions of assault, scuffles, and neighbourhood altercations are purely questions of fact that need to be decided by the trial court.

- 14.** Stressing that Petitioner No. 1 has already been discharged and dropped by the police via the Final Report, Mr. Kanjilal contended that the evidence of eyewitnesses on record is more than sufficient to make out a prima facie case against Petitioner No. 2 (Arjun Prasad), and accordingly prayed for the summary dismissal of the petition.
- 15.** Having heard the exhaustive submissions advanced by the learned counsels for the respective parties in their natural sequence and upon a meticulous examination of the case records, this Court finds that the core questions falling for determination in this revisional application are:
- (i) whether the criminal proceedings against Petitioner No. 1, who has already been exonerated and discharged by the investigating agency via a Final Report due to an irrefutable military alibi, are utterly non-maintainable and constitute an abuse of process; and
 - (ii) whether a prima facie case is made out against Petitioner No. 2 based on the case diary materials and witness statements to warrant the continuation of trial, or whether the entire proceeding ought to be quashed as a malicious counter-blast arising out of a pending civil property dispute.
- 16.** I have applied my anxious consideration to the rival contentions, tracking the chronological and natural flow of events from the inception of the civil dispute up to the submission of the chargesheet and Final Report, and evaluated them in light of the established legal principles governing the exercise of inherent powers under Section 482 of the

Code of Criminal Procedure. Both sides have rightly placed reliance upon the watershed principles enunciated by the Hon'ble Supreme Court in *State of Haryana v. Bhajan Lal (supra)*. While the petitioners invoke *Bhajan Lal* to demonstrate that the proceeding is tainted by mala fides, fabricated imputations, and ulterior motives of wreaking vengeance, the State and Opposite Party No. 2 rely on the very same authority to contend that where a prima facie case is disclosed, judicial interference at the threshold is unwarranted.

- 17.** To resolve this legal conflict logically and seamlessly, a granular appraisal of the case diary, the pleadings in Title Suit No. 470 of 2023, and the charge-sheet reveals a stark dichotomy between the roles and legal standing of the two petitioners, necessitating a compartmentalized analysis intertwined with the applicable legal standards.
- 18.** Examining the case of Petitioner No. 1 (Arun Prasad) first, the chronological facts as appear from the records speak with unmistakable clarity. The FIR was drafted with sweeping, reckless abandon, casually naming a serving soldier as a joint participant in an alleged early morning neighbourhood brawl in Hooghly on October 5, 2023. However, official communication and certification from the Commanding Officer of B-Company, 25, BRTE, Imphal, Manipur, established beyond the shadow of a doubt that Petitioner No. 1 was on active military duty in Imphal at the relevant time. It is physically impossible for an individual to inhabit two geographical coordinates thousands of miles apart simultaneously. Recognizing this impossibility, the investigating officer rightly submitted a Final Report concerning Petitioner No. 1, which

effectively amounts to his discharge from the criminal net. Curiously, despite having been dropped by the police, he continues to be arrayed as a co-petitioner in the present revisional application, a procedural anomaly that highlights a fatal defect in the initial police action of roping him into this prosecution.

- 19.** While the opposite parties heavily rely on the general proposition of law that High Courts should refrain from evaluating factual defences or weighing evidence under Section 482 CrPC, treating matters like alibi as exclusive domains of the trial court, those authorities are clearly distinguishable and inapplicable here. In standard criminal jurisprudence, a plea of alibi is an ordinary question of fact requiring evidence during trial through family members or private witnesses. In stark contrast, the alibi of Petitioner No. 1 is not a self-serving plea; it is an officially certified state and military record verified directly by the Commanding Officer of an operational Army unit.
- 20.** When the prosecuting agency itself verifies and concedes the physical impossibility of an accused's presence at the crime scene, the principle against evaluating defences at the threshold ceases to apply, as the foundational charge stands legally demolished. This unimpeachable, authentic official record shatters the credibility of the complainant's allegations against him. To compel a soldier of the nation to endure the ignominy and trauma of a criminal trial based on a demonstrably false and vindictive police report is an unconscionable abuse of the judicial process. Applying the first and third categories of the *Bhajan Lal* parameters, I am of the firm view that the prosecution against Petitioner

No. 1 falls squarely within the category of a malicious and absurd proceeding that cannot be permitted to stand.

- 21.** Turning next to Petitioner No. 2 (Arjun Prasad), I find that the factual matrix stands on a distinctly different footing. Unlike his brother, Petitioner No. 1, he was locally residing and available at the locale. The case diary contains statements of eyewitnesses recorded under Section 161 CrPC and injury reports that prima facie speak of a scuffle and neighbourhood friction arising from the disputed common passage. While the background is undeniably coloured by ongoing civil litigation in Title Suit No. 470 of 2023, the courts have consistently held, as reinforced in authorities like *Mohammed Ibrahim & Ors. v. State of Bihar & Anr.* [(2009) 8 SCC 751], that while the existence of a civil dispute does not bar a criminal prosecution if independent criminal ingredients are made out, converting a pure civil property dispute into a criminal battleground through exaggerated or true allegations must be tested on the strength of investigative materials.
- 22.** The facts of the present case and materials on the case diary disclose the existence of independent ingredients of penal offences, such as wrongful restraint and simple hurt. Evaluating the truth or falsity of these witness accounts, the exact nature of the altercation, and the counter-allegations raised by the defence involve disputed questions of fact. Unlike the unassailable military alibi of Petitioner No. 1, typical cases involve consolidated criminal charges where local accused persons share a nexus to the crime scene.

- 23.** Here, while the inclusion of Petitioner No. 1 exposed the reckless over-implication of an unrelated family member stationed across the country, the local presence of Petitioner No. 2 makes active participation *prima facie* plausible. Under our criminal jurisprudence, such factual controversies cannot be short-circuited or weighed by this Court in a revisional application under Section 482 CrPC; they must be tested through regular trial. Therefore, a *prima facie* case stands sufficiently established to warrant the continuation of the trial against Petitioner No. 2.
- 24.** The Court has authoritatively established that while the extraordinary inherent powers under Section 482 of the CrPC ought not to be invoked to stifle a bona fide criminal prosecution involving disputed questions of fact or a standard plea of alibi, an entirely different legal consequence follows when an accused's alibi rests upon an officially authenticated, unimpeachable state and military record certifying physical absence from the locale at the relevant time. When the investigating agency itself concedes the physical impossibility of the accused's presence and drops them via a Final Report, maintaining a criminal shadow over them constitutes an egregious abuse of the process of law. Conversely, where a co-petitioner's local presence makes active participation *prima facie* plausible, the existence of a parallel civil property dispute does not automatically vitiate the criminal proceedings if independent penal ingredients are disclosed on the case diary, leaving such factual controversies to be resolved exclusively through a regular trial.

- 25.** In view of the aforesaid discussions, this Court arrives at the definite conclusion that the mere existence of a parallel civil dispute or suit does not bar a criminal prosecution if independent ingredients of criminal offences are *prima facie* made out from the investigative materials (relying on *Mohammed Ibrahim (supra)*, and that disputed questions of fact, appreciation of eyewitness accounts, and the evaluation of local participation cannot be short-circuited by the High Court under Section 482 CrPC at the threshold; they must be tested through a regular trial.
- 26.** Upon a harmonious balancing of the facts presented in their natural sequence, the statutory records, the impact of the Final Report discharging Petitioner No. 1, and the landmark guidelines in *Bhajan Lal (supra)*, I am of the considered view that this revision petition must succeed in part. The continuation of criminal proceedings against Petitioner No. 1 is a structural impossibility and a gross miscarriage of justice, while the case against Petitioner No. 2 must proceed to trial for a proper adjudication of facts.
- 27.** Accordingly, it is ordered that:
- (i) The Criminal Revision Petition, being C.R.R. No. 2356 of 2024, is allowed in part.
 - (ii) The impugned criminal proceedings arising out of Uttarpara Police Station Case No. 445 of 2023 dated December 6, 2023, along with Chargesheet No. 20 of 2024 dated January 31, 2024 (corresponding to G.R. Case No. 3095 of 2023) pending before

the Court of the Learned Additional Chief Judicial Magistrate, Serampore, are hereby quashed and set aside exclusively in respect of Petitioner No. 1 (Arun Prasad), taking formal cognizance of the fact that he stands already discharged and dropped by the investigating agency via the submission of the Final Report.

(iii) The prayer for quashing the proceedings as against Petitioner No. 2 (Arjun Prasad) is hereby rejected, and the trial against Petitioner No. 2 shall proceed in accordance with law before the Learned Trial Court, uninfluenced by any observations made in this judgment regarding the merits or demerits of the case.

(iv) The Learned Trial Court is directed to proceed expeditiously with the trial concerning Petitioner No. 2, ensuring that the parties do not utilize dilatory tactics, while keeping in mind that the observations herein are strictly confined to the disposal of the present revisional application.

28. All interim orders passed earlier in this revisional proceeding stand vacated, and all pending miscellaneous applications, if any, stand disposed of accordingly.

29. There shall be no order as to costs.

30. Let a copy of this judgment be transmitted down immediately to the Court of the Learned Additional Chief Judicial Magistrate at Serampore, Hooghly, along with the trial court records, for necessary information and compliance.

- 31.** Case diary, if any, be returned forthwith.
- 32.** Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Uday Kumar, J.)