

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

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

CRR 1606 OF 2024

**SK. HABIBUR RAHAMAN & ANR.
-VS-
STATE OF WEST BENGAL & ANR.**

For the Petitioners : Mr. Abhrajit Roychowdhury
Mr. Dipankar Bhakta
Mr. Sekhawat Khandakar

For the State : Mr. Pritam Roy
Mr. Saswata Chatterjee

Reserved on : 18.08.2026

Pronounced on : 28.08.2026

UDAY KUMAR, J.: –

1. The administration of criminal jurisprudence within a constitutional democracy requires a very careful and balanced approach. On one hand, the courts have a duty to protect vulnerable people, especially children and minors, from exploitation, abuse, and illegal treatment, while on the other hand, higher courts also have an equally important duty to protect innocent individuals from false, unnecessary, or harassing criminal cases that misuse the legal process.

- 2.** The present criminal revision application invokes the inherent jurisdiction of this Court under Section 482 read with Section 401 of the Code of Criminal Procedure, 1973. The petitioners, who are a married couple, have approached this forum seeking the complete quashing of Techno City Police Station Case No. 231 of 22 dated November 30, 2022, corresponding to G.R. Case No. 4625 of 2022. This encompasses the consequential Charge Sheet No. 215 of 22 dated December 9, 2022, submitted under Sections 342, 506, and 34 of the Indian Penal Code, Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015, and Section 14 of the Child Labour (Prohibition and Regulation) Act, 1986. The proceedings are presently pending before the Learned Chief Judicial Magistrate at Barasat in the district of North 24 Parganas.
- 3.** Looking at the facts from the case diary, the whole matter started on November 30, 2022, around 9:25 PM, when a team member of an NGO called Childline, named Nihar Ranjan Mondal, on the basis of the information received by him on November 28, 2022 on Child Helpline No. 1098, has rescued the minor child from Flat Number K/45-102 at Shapoorji Housing Complex. The flat belonged to Petitioner No. 1 who works in a private company and Petitioner No. 2 is a government employee. They were living there with their two children.
- 4.** During this surprise visit, the team found a 15-year-old girl named Rahima Khatun inside the flat. Following the rescue, a formal written complaint was filed at the Techno City Police Station. The main allegation was that the minor girl was wrongfully kept locked up in the

said flat and was made to work as a domestic help to look after the petitioners' children and do heavy household chores, allegedly for a promised monthly payment of Rs. 1,500/-, along with food and stay.

5. After getting this complaint, the police registered an FIR and started an investigation. The investigating officer visited the spot, talked to witnesses, and recorded their statements under Section 161 of the CrPC. Most importantly, the statement of the minor girl was recorded before a Judicial Magistrate under Section 164 of the CrPC. Once the investigation finished, the police felt there was enough evidence and filed a charge-sheet against the petitioners under the afore-mentioned sections.
6. Mr. Abhrajit Roychowdhury, learned Counsel appearing for the petitioners, has argued that no legally sustainable or cognizable case is made out against his clients under any of the invoked statutes. His main point is that there was never any employment contract or agreement, and the girl was never hired or employed by the petitioners as a domestic helper or labourer.
7. He explained that the girl was actually facing severe family problems and had no place to go. Out of pure kindness, love, and charity, the petitioners gave her a roof over her head, food, and shelter. He said any occasional money given to her was just a voluntary act of kindness, born out of a benevolent and charitable disposition rather than contractual wages or monthly salary, and whatever small help she did around the house was all out of gratitude and affection, not forced labour.

8. Learned Counsel has further urged that these benevolent acts neither violate the penal provisions of the Child Labour (Prohibition and Regulation) Act, 1986, nor attract the basic requirements for an offence under Section 75 of the Juvenile Justice Act, 2015 as the statutory ingredients of the said offence viz. willful neglect, abandonment, physical assault, or mental abuse, are completely missing here.
9. To support his argument that Section 75 of the Juvenile Justice Act does not apply, Mr. Roychowdhury relied on a judgment of the Kerala High Court in *A. Nizamuddin v. Station House Officer* (2017 SCC OnLine Ker 7324). In that case, the court held that employing a child for domestic work is not an offense under Section 75 unless the worker is kept in "bondage" (meaning they are not free to leave) or subjected to actual physical or mental cruelty. He argued that, similarly, just having a minor in the house who helps out occasionally does not cross the legal line into cruelty or forced labour.
10. Accordingly, Mr. Roychowdhury concluded that continuing this criminal proceeding against respectable working professionals is a gross abuse of the legal process, warranting immediate quashing of the impugned proceeding by this Court.
11. Conversely, Mr. Pritam Roy, learned counsel representing the State of West Bengal, has strongly opposed the prayer for quashing, contending that the petition is premature and meritless. Pointing to the case diary, Mr. Roy highlights the exact circumstances surrounding the recovery of the minor girl at 9:25 PM from the private apartment of the petitioners

by the Childline team, which is corroborated by the official recovery memo annexed to the records.

- 12.** He pointed out the contradictory statement of the victim recorded by police during investigation as appearing from the case diary. In her first statement recorded under Section 161 CrPC, she clearly made disclosure about her domestic work, confinement, and payment, while in her subsequent statement recorded before the Magistrate under Section 164 of Cr.P.C. presented a modified narrative, creating a patent factual conflict. He argued that these conflicting statements raised deeply entrenched factual disputes that cannot, as a matter of settled law, be weighed, dissected, or resolved at a preliminary pre-trial stage.
- 13.** Relying extensively on foundational criminal jurisprudence and the landmark legal principles laid down by the Hon'ble Supreme Court of India in *State of Haryana v. Bhajan Lal*, Mr. Roy submitted that this Court while exercising its extraordinary inherent jurisdiction under Section 482 of the Code of Criminal Procedure cannot conduct a mini-trial and thus prays for the outright dismissal of the revision petition.
- 14.** Having heard the exhaustive, erudite, and detailed submissions advanced by the learned counsels for the respective contesting parties, and having meticulously perused the case diary, the statutory provisions, and the materials on record, the core question that falls for the determination of this Court is whether the evidences in case diary, including the statements recorded under Sections 161 and 164 of the Code of Criminal Procedure, collected by the police are sufficient to disclose prima facie material to sustain the criminal prosecution under

the invoked special and general penal statutes, or whether the charitable defence raised by the petitioners is strong enough for this Court to step in under Section 482 and throw out the case at the very beginning.

- 15.** It is a well-settled rule of criminal law that courts should use their power to quash a criminal case at the threshold very cautiously, sparingly, and only in the rarest of rare cases. If the police papers and case diary show that a cognizable offense has been committed, the High Court should not kill the prosecution at its very birth. To see if there is a basic case, this court must look at Section 14 of the Child Labour Act which, which penalizes anyone who employs a child or lets a child work in violation of the law, aiming to stop the economic exploitation of children; and Section 75 of the Juvenile Justice Act penalizes anyone having charge of a child who assaults, abandons, abuses, or willfully neglects the child in a way that causes unnecessary mental or physical suffering.
- 16.** Now, coming to *A. Nizamuddin v. Station House Officer (supra)*, the judgment cited by the learned counsel for the petitioners, I must note that while the principles enunciated in that case are correct (meaning Section 75 requires clear proof of cruelty, bondage, or exploitation), *is clearly distinguishable on its own from the peculiar facts* of this case. In the *A. Nizamuddin* case, the court decided whether bondage or cruelty existed based on the specific evidence of that particular matter. Here, however, the investigation has brought out direct, though conflicting, versions from the victim herself.

- 17.** Unlike a situation where everyone agrees it was purely a humanitarian rescue, the case diary here contains statements (especially the initial Section 161 statement and the late-night recovery at 9:25 PM) that point toward work being taken in exchange for a promised payment. Therefore, the ratio of *A. Nizamuddin* cannot be applied as a blanket shield right at the pre-trial stage to stop a prosecution where the core question of whether it was "charity" or "illegal child labour" is heavily disputed.
- 18.** In this case, this court finds two completely different versions of the story, the prosecution's side (based on the early investigation and Section 161 statement) says the minor girl was hired for household chores and baby-sitting in exchange for money, food, and stay, which directly attracts Section 14 of the Child Labour Act and raises questions under Section 75 of the Juvenile Justice Act; whereas the defence's side (supported by the latter Section 164 statement) says the child came looking for shelter due to family distress and her stay was purely voluntary and charitable.
- 19.** This major difference between the earlier and latter statements of the minor victim creates a clear dispute of facts that needs to be tried. The petitioners' defence that they were only doing a good deed to help a poor child, cannot simply be accepted as absolute truth at this preliminary stage. It is a well-known principle of criminal law that defence arguments, no matter how convincing they look right now, cannot be tested, weighed, or accepted by this Court under Section 482. Checking how reliable witness statements are, resolving the contradictions

between the Section 161 and Section 164 statements, examining at the actual environment of the house, and figuring out whether it was child labour or genuine humanitarian help are *matters that fall exclusively within the domain of the learned trial court during the crucible of a full-fledged trial.*

- 20.** Upon an exhaustive evaluation of the factual matrix, the statutory framework of the special enactments, and the binding precedents of the Hon'ble Apex Court, this Court records its definitive findings as follows.

First, the case diary has enough initial material and witness statements to legally allow the trial to move forward under the invoked penal statutes;

Second, the defence of humanitarian help and the application of judgments like *A. Nizamuddin* involve disputed questions of fact that cannot be settled through a quashing petition; and

Third, as per the Hon'ble Supreme Court guidelines, this Court cannot conduct a mini-trial or compare the value of the statements under Section 161 and Section 164 of the Cr.P.C at this early stage.

- 21.** Resultantly, this Court finds no merit whatsoever in the instant criminal revision application.
- 22.** The criminal revision application being C.R.R. Number 1606 of 2024 stands dismissed.

- 23.** Any interim order of stay passed earlier in connection with this proceeding stands vacated forthwith.
- 24.** The Learned Trial Court is directed to proceed with the trial expeditiously and strictly in accordance with law, uninfluenced by any observations made in the course of this judgment.
- 25.** There shall be no order as to costs.
- 26.** Case diary, if any, be returned forthwith.
- 27.** Let a copy of this judgment along with the trial court records be transmitted to the Learned Trial Court forthwith for information and necessary compliance.
- 28.** Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Uday Kumar, J.)