



2026:CHC-PB:64

IN THE HIGH COURT AT CALCUTTA

CRIMINAL REVISIONAL JURISDICTION
[CIRCUIT BENCH AT PORT BLAIR]

PRESENT : THE HON'BLE JUSTICE TIRTHANKAR GHOSH

CRR/3/2026
IA No. CRAN/1/2026

SHRI E. VENKATA RAO ... PETITIONER

VS.

THE STATE AND ANOTHER ... RESPONDENTS

For the petitioner : Mr. Kushagra Pandey
(through virtual mode)
Mr. Pardeshia Munda

For the respondents : Mr. Sumit Kumar Karmakar

Heard on : March 19, 2026

Judgment delivered on : March 23, 2026

TIRTHANKAR GHOSH, J.

1. The present revisional application has been filed under section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 praying for quashing of Pahargaon Police Station Case being FIR No.0170 of 2023 corresponding to G.R. Case No.946 of 2023 as also the charge sheet filed in connection with the said proceeding which is pending before the learned Judicial Magistrate, Second Court, Port Blair, Andaman and Nicobar Islands.



2. The allegations made in the FIR were on the basis of an information advanced by the informant/complainant to the Station House Officer of the Pahargaoan Police Station to the effect that the informant/complainant is a trainee of Surveyor Unit -I, Dollygunj, Port Blair. An Instructor namely E.V. Rao/petitioner of Surveyor Trade Incharge joined the department in the last week of July and started taking classes from the month of August, 2023.

3. The informant alleges that as soon the petitioner started taking class, he spoke on inappropriate topics as, if girls want to have relationship with a boy, they should get experience from a man physically and mentioned there is no good touch and bad touch rather it is the mindset of the girls.

4. It was further alleged that the petitioner advanced towards her with bad intention and on last week of August 2023, i.e 27th August, 2023 to 5th September, 2023 during practical classes while using tripod, the petitioner advanced towards the informant from backside and touched her waist and when she tried to avoid him, he forcibly made her stand in front of the tripod and acted as if he is teaching her but touched her breast and rubbed her back to waist because of which she felt shameful and uncomfortable. She tried to avoid the petitioner and after the incident when the petitioner found that she was not acting as per his instruction, he threatened her with dire consequences for which she was scared as he was a teacher and her career would be jeopardized. She did not reveal the incident to anyone as the petitioner kept threatening her



that he will force her to leave the course. Later she came to know from her friends namely, Shabnam, Najiya, Misruya, Nirmala, Sangita, Neeshita that the petitioner has also touched them inappropriately. She, therefore, requested to take strict legal action against the petitioner for molesting her and speaking with her in vulgar language.

5. On the basis of the aforesaid complaint to the Station House Officer, the present case was registered for investigation and on completion of investigation, charge sheet was submitted before the jurisdictional Court. It is reflected from the charge sheet that the prosecution relied upon 23 witnesses out of which 15 witnesses including the complainant/informant were girls of the institute.

6. Learned advocate appearing for the petitioner challenged the continuation of the proceeding on the ground that the complainant/informant submitted information with the police authority which is an afterthought and to that effect he relied upon a document which is the letter addressed to the Principal dated 22nd September, 2023.

7. Learned advocate, by referring to the said letter, submitted that the contents of the letter would reflect that there were no details of incident stated in the said written information and the subsequent letter which was addressed to the Station House Officer dated 27th September, 2023 do reflect a separate set of incidents.



8. Learned advocate for the petitioner, thereafter, referred to the statement of the informant under section 164 of the Code of Criminal Procedure and drew the attention of the Court to the contents of the same. According to the learned advocate, there was not only deviation from the letter which was sent on 21st September, 2023 to the Principal but there was improvement also in the statement under section 164 of the Cr.P.C which is a statement recorded before the learned Judicial Magistrate.

9. Learned advocate also drew the attention of the Court to certain documents which included the register/attendance diaries in respect of the students to fortify his claim that from 27th August, 2023 to 5th September, 2023, the petitioner was never present in the classes which were held and as such the allegations which have been made in the instant case against the present petitioner has been manufactured to cover up her own misdeeds and incompetency as a student for the particular curriculum.

10. Learned advocate also intended to rely upon certain other documents which he obtained under the Right to Information Act but this Court felt that at this stage, the law permits only the documents which are of sterling quality can be looked into and not every documents is to be considered. In fact the attendance register/class diaries, which were referred to by the petitioner, were objected by this Court so also the letter addressed to the Principal as the authenticity and genuinity of the document is a question of fact to be proved in course of the trial and



were not part of the documents which were supplied to the petitioner under section 207 of the Cr.P.C.

11. Learned advocate for the petitioner submitted that First Information Report which was registered pursuant to the information filed by the Opposite Party No.2 is false, vexatious as she was aggrieved by the adverse entries returned by the petitioner in her daily diaries as well as her classmates. The petitioner specifically contended that he being an outright strict teacher and refusing to accept the indiscipline committed by the opposite party and her classmates who ganged up and falsely implicated the petitioner. It has been submitted that the petitioner has made out a case both on facts and law in support of his contention.

12. It was contended by the petitioner that the discharge application filed by the petitioner having been rejected by the learned Magistrate do not impact the maintainability of the present petition under section 528 of BNSS as has been held by the Hon'ble Supreme Court in ***Mukesh and others vs. State of U.P and others (SLP (Crl) No.12354 of 2024)***. The scope of a petition under section 528 BNSS being much more wider than the discharge application, the accused is entitled to take a ground of abuse of process of law, and as such produce and rely on material to show abuse of process of law which is not possible in discharge proceeding.

13. The petitioner also relied upon judgment of the Hon'ble Supreme Court in ***Pradeep Kumar Kesarwan vs. State of UP*** reported in **2025**



SCC OnLine SC 1947 wherein the Hon'ble Supreme Court has expressly held that in cases pertaining to abuse of process of law, Court must read between the lines as in such cases, the complainant will ensure to introduce such elements in the complaint/FIR which make out the ingredients of the offence.

14. Reference was made to paragraph 20 which reads as follows:

"20. The following steps should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C.:

(i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the materials is of sterling and impeccable quality?

(ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint. i.e. the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

(iv) Step four, whether proceeding with the trial would result in an abuse of process of the Court, and would not serve the ends of justice?

If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal - proceedings, in exercise of power vested in it under Section 482 of the Cr. PC. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused."

15. Thus while considering an application under section 528 of the BNSS, according to the petitioner, the Court should ensure that the continuation of the trial would not result in abuse of the process of law.



16. Learned advocate thereafter relied upon in ***Appaiya vs. Andhimuthu*** reported in **(2024) 19 SCC 602** and submitted that the provisions of sections 74, 76, 77 and 79 of the Indian Evidence Act were analyzed in the said judgment and it was explained how the same would apply to the certified copy even if private documents are produced and obtained under RTI Act.

17. The petitioner as such intends to rely on the judgment in so far as the facts emerging from the attendance register and daily dairies of the students (including the complainant/opposite party no.2) are concerned. Learned advocate also relied upon a judgment of the Delhi High Court in ***Saurabh Aggarwal Vs. State*** reported in **2022 SCC OnLine Del 5178** and ***Dr. Karunakar Patra vs. State*** reported in **2022 SCC OnLine Del 245** to fortify his arguments that in recent times there has been an alarming rise in filing of false cases pertaining to sexual harassment.

18. Reference was made to ***Anand Kumar Mohatta vs. State*** reported in **(2019) 11 SCC 706** to canvass the issue that if FIR itself is an abuse of process of law, filing of charge sheet in such abusive FIR only aggravates the abuse of process of law.

19. Learned advocate appearing for the petitioner as such submitted that based on the documents placed by the petitioner and taking an overall view of the case, the proceedings deserves to be quashed principally on the ground of abuse of process of law.



20. Learned Public Prosecutor appearing on behalf of the State opposed the prayer advanced by the petitioner and submitted that it is not only the present complainant who has accused the present petitioner but there were other girls who made similar allegations against the petitioner.

21. On behalf the State, attention of the Court was drawn to the statements of Holiyari Kumari, Neha Halder, Riya Sheel, Shabnam, Najiya Banu, Misriya, Nirmala, Sangeeta Toppo, Shivani as also one student namely Vasudev.

22. I have taken into account the statements of the relevant witnesses, which has been relied upon by the learned Public Prosecutor as also submissions advanced by the learned advocate appearing for the petitioner whose main contention was the case being an afterthought and the petitioner has been implicated in connection with the instant case by the informant/complainant out of malice as she herself is not only an incompetent student but also wanted to cover up her misdeeds and so set the criminal law into motion.

23. On perusal of the records of the case, it is reflected that, after the registration of the FIR, the investigation concluded and resulted in a charge sheet wherein the petitioner has been charged under sections 354(A)/506 of the Indian Penal Code.

24. The petitioner has also preferred a discharge application under section 239 of the Cr.P.C before the learned Judicial Magistrate/Trial



Court and the learned Magistrate, on consideration of the materials as well as the documents which were relied upon by the petitioner, refused to discharge the petitioner holding that the stage of the case do require the prosecution on documents to be considered with precedence.

25. As observed earlier, it would be apposite to state that on an assessment of the statements of each of the witnesses named above, I find that there is consistency in the accusation and the same is more or less identical so far as it relates to the petitioner's communication to the girl students, his intention of touching inappropriately the girl student and also creating circumstances for touching the girl student so as to embarrass them.

26. Now section 354 A of the Indian Penal Code incorporates within its ambit "physical contact and advances involving, unwelcome and explicit sexual overtures". Having regard to the materials which have been collected by the Investigating Agency in support of the charges particularly with the consistent statements of the girl students, it would be unwise at this stage to accept the contention of the petitioner that the complainant and/or investigation was a result of malafide complaint for wreaking vengeance.

27. Apart from the aforesaid, this Court has to appreciate the stage of the case. The records reflect that the learned Trial Court has, by its order dated 26th August, 2025, dismissed the application under section 239 of



the Cr.P.C and proceeded to fix a date for charges. Thus, the stage of the case is for consideration of the charges.

28. Having regard to the present stage of the case and the principle settled by the Hon'ble Apex court in a catena of decisions, the Court, at this stage, is prevented from conducting a mini trial. Further, if the documents relied upon by the prosecution failed to establish a case of 'grave suspicion' but makes out a case of 'some suspicion' then only the Court can interfere with the proceeding.

29. Taking into account the materials collected by the Investigating Agency, particularly the statement of girl students, who have consistently stated the manner in which the petitioner made physical contacts, unwelcome advances and explicit sexual overtures, I am of the view that the prosecution has been able to substantiate, *prima facie* the charges levelled against the present petitioner. Further the documents relied upon by the petitioner are not of sterling quality or unimpeachable in nature to be relied upon at this stage.

30. Consequently, I am not inclined to interfere with the further continuation of the present proceeding. As such, the criminal revisional application being **CRR/3/2026** is dismissed.

31. Pending application, if any, is consequently disposed of.

32. Let the case diary be returned to the learned Public Prosecutor immediately.



33. All parties shall act on the server copy of this judgment duly downloaded from the official website of this Court.

34. Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Tirthankar Ghosh, J.)