

10.02.2026

Sl. No.08.

D/L.

Mithun.

Ct.No.29.

CRR/334/2026

Mukesh Prithany

Vs.

State of West Bengal & Anr.

Mr. Moyukh Mukherjee,
Ms. Preetu Chaudhary

... for the petitioner

Petitioner is aggrieved with the proceeding being G.R. Case No.1648 of 2025 presently pending before learned Additional Chief Judicial Magistrate, Durgapur.

The allegation levelled in the complaint is that the petitioner is one of the partners of M/s. Rameshwar Steels approached the complainant firm requesting for the logistic service for the supply of TMT Bar materials and a clear agreement was reached by and between the parties. However, in spite of payment, the petitioner's firm from the inception started causing delay in providing logistic service and thereafter the delay unreasonably aggravated.

Being aggrieved by the impugned proceeding, learned Counsel for the petitioner submits that the petitioner had given the reason for delay that the petitioner's current account was blocked by the GST Department. However, entire prosecution case is fundamentally misconceived as there was no written agreement or contract which is legally enforceable against the petitioner.

He further submits that the entrustment even if there is any purely oral, vague and self-serving and at best, give rise to a civil dispute relating to alleged non-payment of dues. Such allegations, even if taken at their face value, do not disclose the essential ingredients of any

cognizable offence and, therefore, continuance of the proceeding any further would be mere abuse of the process of the law.

He further submits that the offence of cheating and criminal breach of trust on self-same cause of action cannot co-exist and in this context he relied upon the judgment of ***Delhi Race Club Limited & Ors. Vs. State of Uttar Pradesh & Anr.*** reported in ***(2024) 10 SCC 690***. Therefore, he submits further continuance of the impugned proceeding will be mere abuse of the process of the Court and he prays for quashing of the impugned proceeding.

Having heard learned Counsel for the petitioner, the application is admitted.

Petitioner is directed to serve a copy of application upon the State through the office of Public Prosecutor, High Court, Calcutta and upon opposite party no.2 through speed post intimating next date of hearing and to file affidavit of service on the returnable date.

Matter be listed in the Monthly List of April, 2026.

Learned Counsel for the petitioner also prays for interim relief.

Having heard learned Counsel for the petitioner and that the petitioner has made out an arguable case, let the investigation shall continue but the Investigating Agency shall not take any coercive step against the petitioner on condition that the petitioner shall make all sorts of cooperation with the Investigating Agency. However, this order will not preclude the Investigating Agency to submit final report in either form on completion of investigation.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court, Calcutta.

(Dr. Ajoy Kumar Mukherjee, J.)

