

23.04.2026
Item no.12
Ct. No.237
AKG

C.R.R. 1700 of 2026
Goutam Losalka & Anr.
Vs.
The State of West Bengal & Anr.

Mr. Ayan Bhattacharjee,
Mr. Avik Ghatak,
Md. Fahad Imam,
Mr. Sagnik Mukherjee,
Mr. Saptaswajit Kar,
Ms. Ritu Das

.....for the Petitioners

Mr. Soumya Nag,
Mr. Vikas Baisya,
Mr. A. Chakraborty,
Ms. Ranjana Seal

...for O. P. No. 2

Mr. Soumya Nag, learned advocate, appears on behalf of Opposite Party No. 2. A copy of the application has been duly served upon Mr. Nag.

The petitioners seek quashing of the proceedings in connection with Kult Police Station Case No. 167 dated April 3, 2026, under Sections 316(5), 316(2), 318(4), 318(3), 344, and 61(2) of the Bharatiya Nyaya Sanhita, 2023, arising out of Complaint Case No. 201 of 2026, and all proceedings incidental thereto, including G.R. No. 878 of 2026, presently pending before the Court of the learned Chief Judicial Magistrate, Paschim Bardhaman.

A plain reading of the complaint, as appearing at page 16 of the present petition, does not, in my considered view, disclose the

commission of any cognizable offence. The dispute appears to have arisen out of a disagreement between two partners. The nature of the allegations, as set out in the complaint, prima facie, does not satisfy the essential ingredients of the offences punishable under Sections 316(5), 316(2), 318(4), 318(3), 344, and 61(2) of the Bharatiya Nyaya Sanhita, 2023.

The principal allegation is that the complainant and his nephew are partners in a partnership firm, namely "IMPACT," established in the year 2009. It is further alleged that Petitioner No. 1 has subsequently established a proprietorship concern, namely "S. P. Packaging," to carry on a similar line of business.

It is also alleged that Petitioner No. 1 has failed to render proper accounts for the preceding fifteen years. Paragraph 6 of the complaint is reproduced below:

"6. That Subsequent discoveries revealed that-

- a. Including unexplained capital entries of approximately Rs. 26 lakhs/Rs.15 lakhs/Rs. 10 lakhs / 7 lakhs and other similar amounts different financial years in favour of Accused No. 1,
- b. artificial inflation of Accused No. 1's capital from about Rs.49 lakhs to over Rs. 1 crore (plus),
- c. stagnation and later disappearance of the complaint's capital from records post-2022 without the knowledge or consent of the complaint."

Paragraph 8 is also quoted below:

"That after commencement of SP Packaging:

- a. Clients of IMPACT were gradually diverted,
- b. Invoices show the same customers dealing with both firms,

- c. Quotations issued from IMPACT's email falsely stated "*IMPACT*" is our first unit; *SP Packaging* is our second unit",
- d. raw materials addressed to IMPACT were diverted.
- e. Labour, staff and infrastructure of IMPACT were used for SP Packaging."

It is alleged in the complaint that the aforesaid acts amount to misappropriation of partnership property, goodwill, and business.

The law laid down by the Hon'ble Supreme Court reported at **AIR 1965 Supreme Court 1433 (*Velji Raghavji Patel v. The State of Maharashtra*)**, prima facie, makes it clear that the alleged acts do not attract the provisions of Sections 316(5), 316(2), 318(4), 318(3), 344, and 61(2) of the Bharatiya Nyaya Sanhita, 2023.

Therefore, prima facie, it appears that the learned Magistrate was not justified in directing the investigating agency to register the FIR.

In view of the aforesaid, there shall be a stay of all further proceedings in connection with Kulti Police Station Case No. 167 dated April 3, 2026, under Sections 316(5), 316(2), 318(4), 318(3), 344, and 61(2) of the Bharatiya Nyaya Sanhita, 2023, arising out of Complaint Case No. 201 of 2026, and all proceedings incidental thereto, including G.R. No. 878 of 2026, presently pending before the Court of the learned Chief Judicial Magistrate, Paschim Bardhaman, for a period of twelve (12) weeks from the date hereof.

Let a copy of the application be served upon the State, with intimation that the matter shall be taken up for hearing after six

weeks. The petitioners shall file an affidavit of service to that effect on the next date of hearing.

The State shall produce the case diary on the next date of hearing.

Let the matter be listed after six weeks under the heading “To Be Mentioned.”

(Kausik Chanda, J.)