

**27.03.2026**

Sl. No.15.

D/L.

Mithun.

Ct.No.29.

**CRR/3306/2025**

**Mamta Hansda**

**Vs.**

**The State of West Bengal & Anr.**

Mr. Navanil De,  
Mr. Srinjan Ghosh

...for the petitioner

Mr. Debasish Roy, Ld.P.P.,  
Mr. Kaushik Kundu,  
Mrs. Debjani Sahu

...for the State

Report regarding service of notice upon opposite party no.2 submitted by I/C., Bidhannagar North Police Station is taken on record. Private opposite party/*de facto* complainant is not represented.

The present case was started on the basis of an FIR lodged by one Jagannath Guha, Branch Manager at State Bank of Hyderabad on 16<sup>th</sup> November, 2015 corresponding to G.R. No.1014 of 2015, wherein charge-sheet has been submitted against the petitioner and other (who is not before this Court) under Section 409 IPC. The allegation levelled against petitioner is while she was posted in the complainant/Bank as Joint Custody Officer, misappropriation of bank fund amounting to Rs.11,37,000/- occurred.

The charge under Section 409 of the Indian Penal Code has also been framed against the other accused Nirmal Singha on January 20, 2024. The petitioner claiming no involvement with the alleged offence preferred an application for her discharge from the present case on June

13, 2025, which was turned down by the Court below vide its order dated July 24, 2025.

Being aggrieved by the aforesaid order, learned Counsel for the petitioner submits that learned Court below failed to appreciate the merits of the case and did not take into consideration that the petitioner was initially suspended from service on September 24, 2015 and subsequently she was re-instated to her service on December 18, 2015. Such decision of the organization after conducting departmental proceeding against the petitioner, clearly indicates that the petitioner never had any knowledge about the said offence.

He further argued that learned Court below did not take into consideration that the entire misappropriated amount was recovered from the co-accused, namely, Nirmal Singha and subsequent to his confession of guilt in the departmental proceeding, his service was terminated. Learned Court below also did not take into consideration that the present case was lodged after a delay of about 2 months from the date of incident and also from the date of recovery of the misappropriated amount. Therefore, continuance of further proceeding against the present petitioner will be mere abuse of the process of the Court.

Learned Counsel appearing on behalf of the State opposed the prayer contending that the petitioner was in-charge of Joint Custody Officer and the principal accused Nirmal Singha has stated in his statement that neither he nor the present petitioner, who was joint custodian, verified the days account and when the amount was sent for keeping it in a vault, it was detected a deficit of Rs.11,37,000/-. Therefore, the petitioner is a conspirator and the Court below has rightly rejected the petitioner's prayer for discharge.

I have considered submissions made on behalf of both the parties. After going through the FIR, it appears that the alleged occurrence took place on 31<sup>st</sup> August, 2015 and the FIR was lodged on 16.11.2015 and it has been clearly mentioned in the FIR that the amount involved in the fraud is Rs.11,37,000/- and the full amount of Rs.11,37,000/- was recovered from the other accused, who acted as Head Cashier of the Branch, namely Sri Nirmal Singha on 01.09.2015. The present petitioner was implicated as she was Joint Custody Officer of the Bank and that she did not verify the act of principal accused Sri Nirmal Singha, from whom the recovery was made. It was also specifically mentioned in the FIR that Nirmal Singha, acting Head Cashier of the Branch replenished the entire missing cash of Rs.11,37,000/- on 01.09.2015 and he was the only Cashier posted in the branch who handled cash related transactions. Therefore, it is clear that no imputation has been levelled against the present petitioner in the FIR and even charge sheet also failed to mention any overt act of the petitioner, who admittedly had not handled the entire cash amount.

It further appears that the petitioner was suspended by a letter dated 24.09.2015 which was subsequently revoked by another letter dated 18.12.2015.

It has been further stated in the charge-sheet that in the evening of the date of occurrence on physical verification of closing balance a deficit of Rs.11,37,000/- was detected and such deficit statement was confirmed by Joint Custody Officer, Ms. Mamata Hansda. Therefore, in the charge-sheet also no imputation has been made against the petitioner Mamata Hansda who in fact confirmed as a witness that there was a deficit on physical verification, in the day's closing balance.

I have also gone through the statements recorded by the Investigating Officer in respect of two independent witnesses and also the statement of the accused persons which also does not disclose any offence against the present petitioner.

However in the above backdrop, trial Court rejected petitioner's prayer for discharge observing:-

*"Accused Mamata Hansda, in fact, did not exercise her due diligence to discharge her function as joint custodian officer of the bank. At the present stage, without proper examination of bank records, appreciation of evidence of witnesses she cannot be given exist. At the stage of consideration of charge, Court cannot hold mini trial namely appreciation of statement of witnesses and documents....."*

No doubt it is true that at the time of framing charge, the probative value of the materials on record cannot be gone into but before framing a charge, the Court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible. [**Sajjan Kumar Case, (2010) 9 SCC 368**].

Therefore, if according to Court below the petitioner herein had failed to exercise her due diligence to discharge her function as Joint Custodian Officer of the bank, then at best it may amount to dereliction of official duty but does not attract criminality.

The Supreme Court in **Union of India Vs. Prafulla Kumar Samal (1979) 3 SCC 4** has held that the stage of framing of charges, the trial Court has the power to sift and weigh evidence though for a limited purpose and finding out whether or not a prima facie case against the accused has been made out. Charge would not be made on suspicion but on the facts giving rise to grave suspicion of the accused having committed the offence.

In **State of Karnataka Vs. L. Muniswamy & Ors., (1977)2 SCC 699**, Apex Court also made it clear that it is wrong to say that at the stage of framing charge, the Court cannot apply its judicial mind to the

consideration, whether or not, there is any ground for presuming the commission of offence by the accused. The order framing a charge affects a person's liberty substantially and therefore it is the duty of the Court to consider judicially, whether the material warrants the framing of the charge. It cannot blindly accept the decision of the prosecution that the accused be asked to face a trial.

In the instant case, it is mere suspicion of the prosecution that the petitioner, in terms of holding the post of Joint Custody Officer, may have a role to play in committing the offence in connivance with principal accused, but such suspicion against petitioner never took the place of grave suspicion during investigation as discussed above.

Therefore in the instant case, the approach of the Court below to the issue of framing charge is unrealistic, though it has to be pragmatic for the simple reason of the words in Section 228, which begins "if after such consideration" which refers to the consideration under Section 227. The above words provide an interconnection between Sections 227 and 228 and therefore charge can only be framed under Section 228, if the material and documents on record, if taken at their face value discloses the existence of the ingredients of the offence. In the present case there is no material to suggest any conspiracy or direct overtact of the petitioner and therefore charge cannot be framed against her, merely on speculation and as such, she is liable to be discharged.

In view of the above, CRR 3306 of 2025 is allowed. The impugned proceeding being G.R. Case No.1014 of 2025, presently pending before learned Additional Sessions Judge, 3<sup>rd</sup> Court, Barasat is hereby quashed qua the petitioner, **Mamata Hansda**.

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. )**