



2025:CHC-AS:1851

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

Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. 4119 of 2023

Anirban Bhattacharya

Versus

The State of West Bengal & Another

For the Petitioner : Mr. Anirban Mitra. Adv.
Mr. Amit Halder, Adv.
Mr. Amit Roy, Adv.

Heard on : 1st September, 2025

Judgment on : 19th September, 2025

Ajay Kumar Gupta, J:

1. Petitioner has preferred this Criminal Revisional Application under Sections 397, 401 read with Section 482 of the Cr.P.C., challenging the legality, correctness, and propriety of an order dated 04.08.2023, passed by the Learned Additional Chief Metropolitan Magistrate Court-I at



Calcutta in Misc. C Case No. 75 of 2023 under Sections 153/153A/295A/298 of the Indian Penal Code, 1860 whereby and whereunder the application u/s 156(3) of the Cr.P.C. was dismissed for want of jurisdiction.

2. The brief facts of the case are that the petitioner, who works as a Secretary at Bishwa Hindu Parisad (an Organization), lodged a written complaint before the Officer-in-Charge, Shyampukur Police Station, as well as before the Deputy Commissioner of Police on 02.05.2023 and 10.05.2023, respectively, by Speed Post with A/D. The complaints were received by the said authorities. The allegation was to the effect that one Nachiketa Chakraborty (a Bengali singer, composer and musician) during a live concert, tried to provoke the common people, particularly citizens of India and outraged the religious sentiments of the followers of Lord Ram by narrating the following term:-

“apnara nijerai bujhte parchenna ora ki paap koreche ora jonmiyeche, saradin ekta bachchake engage kore rakhe, school to basically odbhut ekta jontrer moto, mane nana rokom project diye dichce bachcha der, amra sala jibone eisob korin, sara raat jege take project korte hoche, sala teacher rao jane sobai jane ota onnolok kore dichch, or baba kore diche bari theke onnolok kore dichche, oi project ta kore dite hobe, sale project kore kihobe, ki hoyeche, Kono kaje laglona, amar meyeke to dekhlam boro hoye galo project gulo to kono kajer noi, to ei je engage kore rakha, ekta bachcha golper boi porte parchena, valo cinema dekhthe parchena,



ei jaiga gulo bondo kore debar mane bujhte paren? Kotoboro sorbonas hoche, ekta bachchar kolpona sokti nosto hoye jachche, Bharotborsher manusher moto hoye jabe, bujhechen? Ramer name ei gola katte chole jabe, ei jonnoi hoche..... o to gadhai hobe Bharotborsher loker moto aar ki.”

3. The petitioner alleged that even after receiving the said complaint, the police authorities were reluctant to lodge a complaint against the aforesaid Nachiketa Chakraborty. As a result, the petitioner was compelled to file an application under Section 156(3) of the CrPC, before the Learned Additional Chief Metropolitan Magistrate, Court-I at Calcutta, being Misc. C. Case No. 75 of 2023 praying for an order for directing the Officer-in-Charge, Shyampukur Police Station, to register an F.I.R. against the accused for committing offences under Sections 153/153A/295A/298 of the IPC, and cause an investigation in respect of the aforesaid matter, and submit a report before the Learned Court.
4. The petitioner alleged that after perusal of the allegations, the Learned Magistrate was pleased to call for a report from the O.C., Shyampukur P.S. and to fix a date for further hearing of the said matter on 04.08.2023.
5. A report was filed by the O.C. stating, inter alia, that the petitioner failed to produce any documents and information of the date, time and place of the live concert of Nachiketa Chakraborty. The report further disclosed that he failed to prove having attended the concert or even having visited the spot where the said alleged live concert had been held.



6. It is significant to mention here that in the aforesaid police report, it was further revealed that the alleged accused was neither a resident under the said jurisdiction nor did he perform a live concert under Shyampukur PS.
7. The petitioner alleged that neither did the Learned Magistrate pursue the materials on record nor did he appreciate the recent judgment of the Hon'ble Supreme Court, where it was stated that as and when any hate speech or any action takes place which attract offences under Sections 153A, 153B and 295A and 505 of IPC etc., a suo moto action should be taken to register cases even if no complaint is forthcoming, and proceed against the offenders in accordance with law.
8. The petitioner further contended that the Learned Magistrate acted illegally by not considering the hate speech which was shown on social media platforms. The question of territorial jurisdiction of the Court does not arise as the petitioner's official address falls within the jurisdiction of the concerned police station and, therefore, the Learned Magistrate completely erred in law by not allowing the application u/s 156(3) of the CrPC.
9. The petitioner further contended that the Learned Magistrate completely erred in law by not appreciating that the present complaint is filed within the jurisdiction of the complainant's place of residence.
10. Being aggrieved by and dissatisfied with the impugned order of rejection dated 04.08.2023 passed by the Learned Additional Chief Metropolitan



Magistrate, Court – I, Calcutta in Misc. C Case No. 75 of 2023 in an application filed under Section 156(3) of the CrPC, the petitioner preferred this instant revisional application.

- 11.** Learned counsel appearing on behalf of the petitioner submitted that Learned Magistrate did not allow the application filed under Section 156(3) of the Cr.P.C., with the prayer to send the same to the Shyampukur Police Station to be treated as an FIR, even though the allegations levelled against the accused person are very serious in nature. He has committed an offence punishable under Section 153/153A/295A/298 of the IPC. The alleged accused tried to provoke the common people of India and outrage the religious sentiments and feelings of the followers of Lord Shree Ram.
- 12.** Learned counsel stated that a video of the said live concert, containing the provocative and insulting hate speech of said Nachiketa Chakraborty, is already spreading on different social media platforms, criticising the current education system, insulting the religious sentiments of certain communities, and also harming the integrity of the nation. It may cause a riot and needs to be stopped from spreading, and the accused needs to be punished accordingly by way of criminal proceedings initiated against him.
- 13.** Learned Counsel further contended that despite the aforesaid facts, the Learned Trial Court capriciously and whimsically rejected the application filed by the petitioner under Section 156(3) of the CrPC, even when the



concerned police station and Deputy Commissioner of Police failed to register an FIR. Therefore, this application is preferred by the petitioner so that this Court can direct the Shyampukur PS to treat the aforesaid application as an FIR against the accused person.

14. None appears on behalf of the opposite party no. 2 despite service of notice on two occasions.
15. Having heard the learned counsel appearing on behalf of the petitioner and on perusal of the record, this Court finds that the allegation appears to be serious since the speech criticised the current education system of the country as well as hurt the sentiments of certain religious communities. Be that as it may, when the application was filed by the petitioner under Section 156(3) of the CrPC, the Learned Magistrate initially directed the Officer-in-Charge, Shyampukur Police Station to enquire into the entire matter and submit a report considering the nature of the allegations. The Officer-in-Charge of Shyampukur Police Station forwarded the enquiry report to the Learned Magistrate on 21.06.2023. The said report is set out herein below in verbatim: -

“During enquiry the petitioner alleged that one Nachiketa Chakrobarty a Kolkata based singer used to perform in live concert at different places of West Bengal and other state, there many people gathered for enjoying the live concert of singing. In this live concert he spreading hate speech, which outraging the religious feelings of Hindu Religion.



During enquiry contacted with the petitioner Anirban Bhattacharya, and he was requested to produced any documents/evidence of live concert performed by Nachiketa Chakrobarty and also requested to supply any information about date, time and place where Nachiketa Chakrobarty used to performed his live concert. But he failed to produce any documents/information about the live concert of Nachiketa Chakrobarty. It could be also learnt that he neither seen the live concert of Nachiketa Chakrobarty nor visited the sport where the said live concert performed.

During enquiry it could be learnt that said Nachiketa Chakrobarty is not a resident under Shyampukur Police Station and neither performed live concert of singing nor spreading such type of hate speech in the jurisdiction of Shyampukur Police Station and other adjoining Police Station area since last three years.

On enquiry the allegation made by the petitioner against Nachiketa Chakrobarty could not be substantiated and no prima facie could be established against Nachiketa Chakrobarty.

It is pertinent to mention here that in the mean time no complaint has been received from local people regarding live concert of Nachiketa Chakrobarty and over this issue no breach of peach taken place till date.”

- 16.** On the basis of the aforesaid report, the Learned Magistrate did not find the actual venue of the live concert as alleged. At the same time, the inquiry report reveals that the alleged accused, Nachiketa Chakraborty, does not reside under Shyampukur PS and, as such, has not performed a live music concert or spread any hate speech in the jurisdiction of



Shyampukur PS for the last three years. The learned Magistrate, finally, rejected the prayer of the petitioner on the ground of want of jurisdiction.

- 17.** This court endorses such findings of the Learned Magistrate because the petitioner failed to satisfy the learned court as well as this court, as regards the whereabouts of the alleged concert that was performed. Nachiketa Chakraborty is not a resident under Shyampukur PS and has not performed a live concert or spread any hate speech in the jurisdiction of Shyampukur P.S. in the last three years, as per the report submitted after inquiry. The present case revolves around the issue as to whether a Magistrate could exercise such authority beyond the territorial boundaries/jurisdiction defined for a particular police station.
- 18.** Before entering into the consideration of the issue involved herein, this Court would like to first indicate the relevant sections for the sake of convenience and proper adjudication of this case.

Section 154 of the Cr.P.C. reads as follows:-

“154. Information in cognizable cases.—(1) Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf:

[Provided that if the information is given by the woman against whom an offence under Section 326-A, Section 326-B, Section



354, Section 354-A, Section 354-B, Section 354-C, Section 354-D, Section 376, [Section 376-A, Section 376-AB, Section 376-B, Section 376-C, Section 376-D, Section 376-DA, Section 376-DB] Section 376-E or Section 509 of the Indian Penal Code (45 of 1860) is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:

Provided further that—

(a) in the event that the person against whom an offence under Section 354, Section 354-A, Section 354-B, Section 354-C, Section 354-D, Section 376, [Section 376-A, Section 376-AB, Section 376-B, Section 376-C, Section 376-D, Section 376-DA, Section 376-DB] Section 376-E or Section 509 of the Indian Penal Code (45 of 1860) is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of an interpreter or a special educator, as the case may be;

(b) the recording of such information shall be videographed;

(c) the police officer shall get the statement of the person recorded by a Judicial Magistrate under clause (a) of sub-section (5A) of section 164 as soon as possible.]

(2) A copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant.

(3) Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Code, and



such officer shall have all the powers of an officer in charge of the police station in relation to that offence.”

Section 155 of the CrPC reads as follows:-

“155. Information as to non-cognizable cases and investigation of such cases.—*(1) When information is given to an officer in charge of a police station of the commission within the limits of such station of a non-cognizable offence, he shall enter or cause to be entered the substance of the information in a book to be kept by such officer in such form as the State Government may prescribe in this behalf, and refer the informant to the Magistrate.*

(2) No police officer shall investigate a non-cognizable case without the order of a Magistrate having power to try such case or commit the case for trial.

(3) Any police officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police station may exercise in a cognizable case.

(4) Where a case relates to two or more offences of which at least one is cognizable, the case shall be deemed to be a cognizable case, notwithstanding that the other offences are non-cognizable.”

Section 156 of the CrPC reads as follows: -

“156. Police officer’s power to investigate cognizable case.—*(1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIII.*

(2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.



(3) Any Magistrate empowered under section 190 may order such an investigation as above-mentioned.”

Section 173 of the BNSS reads as follows: -

173. Information in cognizable cases.

(1) Every information relating to the commission of a cognizable offence, irrespective of the area where the offence is committed, may be given orally or by electronic communication to an officer in charge of a police station, and if given-

- (i) orally, it shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it;
- (ii) by electronic communication, it shall be taken on record by him on being signed within three days by the person giving it,

and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may by rules prescribe in this behalf:

Provided that if the information is given by the woman against whom an offence under section 64, section 65, section 66, section 67, section 68, section 69, section 70, section 71, section 74, section 75, section 76, section 77, section 78, section 79 or section 124 of the Bharatiya Nyaya Sanhita, 2023 is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:

Provided further that-

(a) in the event that the person against whom an offence under section 64, section 65, section 66, section 67, section 68, section 69, section 70, section 71, section 74, section 75, section 76, section 77, section 78, section 79 or section 124 of the Bharatiya Nyaya Sanhita, 2023 is alleged to have been



committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of an interpreter or a special educator, as the case may be;

(b) the recording of such information shall be videographed;

(c) the police officer shall get the statement of the person recorded by a Magistrate under clause (a) of sub-section (6) of section 183 as soon as possible.

(2) A copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant or the victim.

(3) Without prejudice to the provisions contained in section 175, on receipt of information relating to the commission of any cognizable offence, which is made punishable for three years or more but less than seven years, the officer in charge of the police station may with the prior permission from an officer not below the rank of Deputy Superintendent of Police, considering the nature and gravity of the offence,-

(i) proceed to conduct preliminary enquiry to ascertain whether there exists a prima facie case for proceeding in the matter within a period of fourteen days; or

(ii) proceed with investigation when there exists a prima facie case.

(4) Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1), may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Sanhita, and such officer shall have all the



powers of an officer in charge of the police station in relation to that offence failing which such aggrieved person may make an application to the Magistrate.”

Section 175 of the BNSS reads as follows: -

175. Police officer's power to investigate cognizable case.

“(1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIV:

Provided that considering the nature and gravity of the offence, the Superintendent of Police may require the Deputy Superintendent of Police to investigate the case.

(2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under section 210 may, after considering the application supported by an affidavit made under sub-section (4) of section 173, and after making such inquiry as he thinks necessary and submission made in this regard by the police officer, order such an investigation as above-mentioned.

(4) Any Magistrate empowered under section 210, may, upon receiving a complaint against a public servant arising in course of the discharge of his official duties, order investigation, subject to-

(a) receiving a report containing facts and circumstances of the incident from the officer superior to him; and

(b) after consideration of the assertions made by the public servant as to the situation that led to the incident so alleged.”



- 19.** This Court has deeply analysed the statutory provisions, particularly section 156 (3) of the Cr.P.C. corresponding to Section 175 (3) of the BNSS. Both delineate the powers of the Magistrate as far as police investigation is concerned. Section 156(3) empowers a Magistrate to order an investigation by an officer in charge of a police station within the Magistrate's territorial jurisdiction.
- 20.** Section 154 of the Cr.P.C. mandates the registration of FIRs irrespective of territorial limits, and sections 155 and 156 of the Cr.P.C. impose jurisdictional constraints during the investigation and trial stages. The Magistrate's power under Section 156(3) is strictly confined to ordering investigations by the officer in charge of a police station within their jurisdiction.
- 21.** Section 173 of the BNSS governs the registration of FIRs, including the concept of the Zero FIR, and outlines the process for receiving information through oral, written, or electronic means. The concept of Zero FIR refers to a First Information Report filed at a police station regardless of jurisdiction. It essentially marks the initial stage of an investigation before the location of the offence is determined.
- 22.** According to section 173(1) of the Bhartiya Nagarik Suraksha Sanhita (BNSS) 2023, a Zero FIR allows any police station to register a complaint for a cognizable offence, regardless of whether the incident occurred within its jurisdiction. This section makes it imperative upon the police



station to register a Zero FIR in case a cognizable offence is reported, even when the occurrence has taken place outside the jurisdiction of its police station.

23. The police station that registers the FIR assigns it the number “0” and then transfers it to the appropriate police station under whose jurisdiction the offence is committed, for further investigation. This procedure ensures prompt registration of FIR without delay, and immediate action, helping citizens to avoid delay and hassle, and further aids in preserving evidence by preventing loss of time in initiating investigation.
24. This Court also finds upon perusal of the application filed u/s 156(3) of Cr.P.C. that only the contents of social media mentioning, without any date, time and place of the concert and without any authenticity, cannot be the ground to take cognizance of such offence even though the allegation of offence is serious in nature.
25. The Hon’ble Supreme Court, in ***Shaheen Abdullah vs Union of India and Anr.*** (W.P. (C) No. 940 of 2022) vide order dated 28th April, 2023, specifically directed the State Governments shall ensure that immediately as and when any speech or any action takes place which attracts offences such as Sections 153A, 153B and 295A and 505 of the IPC etc., suo moto action will be taken to register cases even if no complaint is forthcoming and proceed against the offenders in accordance with law. In the instant case, even the State has not taken any suo moto action against the said



alleged accused person, as there is no information regarding the alleged incident.

- 26.** This Court also notes that even the record does not reflect any other allegation(s) or any incident of riot in this regard from any corner to date. No other complaints were found in the records either.
- 27.** In the backdrop of the aforesaid facts, and due to lack of sufficient materials placed on the part of the Petitioner, this Court does not find any illegality, infirmity or perversity against the order dated 04.08.2023 passed by the Learned Additional Chief Metropolitan Magistrate for rejecting the application under Section 156(3) of Cr.P.C. filed by the petitioner before him. Therefore, this present revisional application is devoid of merit.
- 28.** Accordingly, **CRR 4119 of 2023** is, thus, **dismissed**. Connected applications, if any, are also thus, disposed of.
- 29.** Let a copy of this Judgment be sent to the Learned Court below for information.
- 30.** Interim order, if any, stands vacated.
- 31.** Case Diary, if any, be returned to the learned counsel for the State.
- 32.** Urgent photostat certified copy of this Judgment, if applied for, is to be given as expeditiously to the parties on compliance with all legal formalities.

(Ajay Kumar Gupta, J)