

4.12.2025

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SB

CRR 5191 of 2025

Biswajit Ghosh
Vs.
The State of West Bengal & Anr.

Mr. Sandipan Ganguly, Sr. Adv.
Mr. Sabyasachi Banerjee, Sr. Adv.
Mr. Anirban Dutta
Mr. Amit Agarwala
Ms. Priyanka Garain
Mr. Satabdi Kundu ...for the Petitioner

Mr. Sourav Chatterjee, Sr. Adv.
Mr. Soumya Nag
Mr. Subroto Sardar
Mr. Aditya Tiwari
Mr. Rajdeep Sengupta
Mr. Rittik Mondal ...for the O.P. no. 2

This is an application wherein the petitioner has prayed for quashing of the impugned proceeding being ACGR case no. 6412 of 2025, presently pending before the learned Chief Judicial Magistrate, Kolkata.

Learned counsel for the petitioner submits that the allegation against the petitioner is that on 2.9.2024, the opposite party herein entered into a running business purchase agreement with accused no. 4 for the acquisition of BGM & M for a consideration of Rs. 25,00,000/- paid in cash and for which, a new bank account was opened. He further submits that no payment has been made to the petitioner no. 4. Furthermore, the allegation levelled against the petitioner pertains to a civil dispute. He further submits that having bona fide intention, he returned Rs. 60,00,000/- out of Rs. 2.11 crores being the agreed amount between the petitioner and the opposite party no. 2. Therefore, there is no deception from the

inception and as such, the allegation under Section 318(4) of the BNS does not lie and furthermore, the proceeding under Section 318(4) and 316(2) of the BNS are two distinct offences and can not run concurrently in connection with the self-same cause of action.

Learned counsel for the opposite party no. 2 submits that the petitioner has siphoned more than Rs. 5 crores, which the learned counsel for the petitioner denied and contended that even in the FIR, no such allegation has been levelled against the petitioner.

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

Petitioner is directed to serve a copy of the application upon the opposite party in course of the day and also upon the State through the office of the Public Prosecutor, High Court, Calcutta intimating the next date of hearing and to file affidavit of service on the returnable date.

Let the matter appear in the Monthly list of January, 2026 under the heading **“Contested Application”**.

Learned counsel for the petitioner prays for interim protection.

Having heard learned counsel for the petitioner and that the petitioner had made out an arguable case which requires adjudication on merit, let the investigation shall continue but the Investigating Agency shall not take any coercive step against the present petitioner for a period of twelve weeks or until further order, whichever is earlier on condition that the

petitioner will make all sorts of cooperation with the Investigating agency.

Urgent Photostat certified copy of this order, duly applied for, be given to the parties upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)