

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

**PRESENT:
THE HON'BLE JUSTICE UDAY KUMAR**

CRR 1176 OF 2023

**PALASH GUIN AND OTHERS
-VS-
STATE OF WEST BENGAL AND ANR.**

For the Petitioner	: Mr. Saptarshi Basu, Ld. Adv. Mr. Aritra Bhattacharya, Ld. Adv. Mr. Saikat Samanta, Ld. Adv. Ms. Payel Khanra, Ld. Adv.
For the State	: Mr. Kallol Mondal, Ld. P.P. Mr. Anamitra Banerjee, Ld. Adv.
For the Opposite Party No. 2	: Mr. Sabyasachi Chatterjee, Ld. Adv. Mr. Imtiaz Akhtar, Ld. Adv. Mr. Badrul Karim, Ld. Adv. Mr. Tirupati Mukherjee, Ld. Adv. Mr. Kiron Sk., Ld. Adv.
Reserved on	: 25.08.2026
Pronounced on	: 03.09.2026

UDAY KUMAR, J.: –

INTRODUCTION

1. When the sacred machinery of justice, set in motion by the highest court of the state, is met with the raw fury of a localized mob, the

boundary between civil administration and criminal law tragically dissolves into chaos. This criminal revision petition brings to our judicial threshold a deeply disturbing narrative of a court-mandated land measurement that culminated in a human tragedy—the sudden collapse and death of an elderly citizen amidst an aggressive melee. The petitioners, who find themselves standing on the precipice of a Sessions trial for murder, rioting, and criminal conspiracy, invoke the revisional and inherent jurisdiction of this Court under Sections 397 and 401 read with Section 482 of the Code of Criminal Procedure. They challenge the legal propriety of an order dated 21st February, 2023 passed by the learned Additional Sessions Judge, Amta, Howrah, which steadfastly refused to grant them a summary exit through a discharge application under Section 227 of the Code. As this Court embarks upon a meticulous examination of the foundational records, the central question is whether the cold letter of medical science regarding a cardiovascular collapse can be weaponized at the threshold to eclipse a brutal, mob-driven assault, or whether the collective conscience of the law demands that the shadows of this incident be fully illuminated through a rigorous, full-fledged trial.

FOUNDATIONAL FACTS

2. To comprehend the true genesis of this grim litigation, one must journey back to a long-standing, bitter civil dispute over a piece of *Bastu* land measuring approximately 12 decimals situated at Village Gazipur Hattala, Mouza West Gazipur, P.S. Amta, District Howrah (bearing JL No. 109 under LR Khatian No. 2682, corresponding to RS

Dag No. 1661 and LR Dag No. 1707). The land originally belonged to the predecessor of the Bhowmick family, late Becharam Bhowmick. Years later, the deceased, Shyamal Bhowmick—an elderly, poorly nourished man aged over 60—secured a housing grant under the Indira Awas Yojana from the Gazipur Gram Panchayat to construct a dwelling hut on this inherited property after his old mud-hut was damaged by natural calamities. However, his immediate neighbors belonging to the Dutta family vehemently obstructed the construction, challenging his title and right of possession. This triggered a flurry of preemptive legal maneuvers between 2015 and 2016, including cross-petitions under Sections 144 and 107 of the Code before the Sub-Divisional Executive Magistrate at Uluberia, which were eventually dropped on the premise that the underlying issues were civil in nature. Frustrated by local administrative non-cooperation and relentless threats from the opposing faction—backed by military relative petitions and local resistance—Shyamal Bhowmick and his brother Bimal Bhowmick ultimately invoked the extraordinary writ jurisdiction of this Court by filing Writ Petition No. 17285(W) of 2017.

- 3.** On November 21, 2017, this Court passed a definitive order directing the Block Land and Land Reforms Officer, Amta-II, to conduct a formal spot demarcation of the disputed land and submit a compliance report within three weeks. It was this court-ordered execution that set the stage for the fatal confrontation. On December 12, 2017, at around 1:30 PM, a team of revenue officials arrived at the site near the Sasan Kali Temple at Gajipur Hattala to execute the measurement. Crucially,

the local police escort had temporarily moved away to monitor surrounding perimeters. Sensing an opening, a hostile crowd materialized at the spot. The gathering was allegedly spearheaded by local Gram Panchayat Pradhan Soma Guin, her husband Palash Guin, members of the Dutta family (including Rintu Dutta, Pintu Dutta, Ashok Dutta, Tarun Dutta, and various female relatives), alongside local associates like Jayanta Bhattacharya, Pradyut Chatterjee, and Ajibar Mallick. According to the written complaint lodged by Sukanta Bhowmick with the Officer-in-Charge of Amta Police Station (registered as Amta P.S. Case No. 543/2017 dated December 12, 2017), the mob aggressively confronted the survey team, questioning why the Panchayat Pradhan's name was involved in the demarcation. When administrative officers requested calm, the accused completely ignored them. The situation rapidly deteriorated into targeted violence. The mob hurled filthy abuses, issued death threats, and physically lunged at the Bhowmick family. During the melee, the elderly victim, Shyamal Bhowmick, was brutally assaulted with heavy kicks, fists, and blows directed at his chest and abdomen by Palash Guin and his associates. Female members of the Bhowmick family were simultaneously attacked, and their modesty was outraged and their garments were torn during the scuffle. When Shyamal collapsed to the ground, semi-conscious and struggling for breath, the accused allegedly blocked neighbors and relatives from shifting him to safety. He was eventually rushed to Amta Rural Hospital, where the attending Medical Officer pronounced him brought dead. Following a comprehensive investigation—subsequently

assumed by the CID (WB) and Howrah DD, the investigating agency gathered extensive material, including eyewitness statements, Section 164 statements from female members of the Bhowmick family and independent locals, a seized mobile phone containing a digital video clip of the merciless beating, and an expert medical board opinion from SSKM Hospital (supervised by Dr. B.N. Kahali) which concluded that the death was a sudden cardiovascular collapse precipitated by physical trauma. On January 28, 2019, the police submitted a comprehensive chargesheet (Charge Sheet No. 22/19) against 13 named accused persons under Sections 147, 149, 323, 354B, 302, and 120B of the Indian Penal Code. The case was committed to the Court of Sessions and renumbered as Sessions Trial Case No. 75 of 2019. On January 4, 2023, the accused petitioners filed an application for discharge under Section 227 of the Code before the Additional Sessions Judge at Amta, Howrah, seeking an ouster of the prosecution on medical and evidentiary grounds. By Order No. 16 dated February 21, 2023, the trial court dismissed the discharge application, leading directly to the filing of the instant revisional challenge.

SUBMISSIONS OF THE PETITIONERS:

4. Learned counsel appearing for the petitioners has passionately argued that the impugned order suffers from a complete non-application of judicial mind. The primary plank of the petitioners' argument rests on the medical evidence. It is contended that the post-mortem report and the subsequent opinion of the expert medical board from SSKM

Hospital clearly state that the cause of death was a "diseased condition of the heart and pericardium" (a natural cardiovascular cause). Ld. Counsel submits that the deceased sustained no major injuries on vital areas such as the chest pericardial zone, neck, abdomen, or scrotum. Therefore, the basic ingredient of Section 302 IPC namely, a homicidal death directly caused by an intentional fatal injury, is completely absent.

5. Furthermore, it is argued that the statements of independent administrative witnesses (the Revenue Officer and Revenue Inspector) reveal they only heard about the assault second-hand from one Bimal Bhowmick without naming the petitioners at the spot, sharply contradicting the "exaggerated" accounts of interested family members. Lastly, it is argued that the auxiliary charge under Section 354B IPC is groundless because no torn wearing apparels were ever seized by the investigating agency.

SUBMISSIONS OF THE STATE AND OPPOSITE PARTY NO.2

6. Per contra, the learned Public Prosecutor-in-Charge appearing on behalf of the State of West Bengal, ably assisted by the learned counsel for the de facto complainant (Opposite Party No. 2), vehemently opposes the revisional application and supports the legality, soundness, and correctness of the trial court's order dated February 21, 2023. The core submissions urged on behalf of the opposite parties are structured around the fulfillment of a prima facie case and the bar on mini-trials. The State contends that the trial court acted well within its legal jurisdiction by refusing to discharge the petitioners. Relying upon the

classic legal principles enunciated by the Hon'ble Apex Court in *State of Bihar v. Ramesh Singh* [(1997) 4 SCC 39] and *Dilawar Balu Kurane v. State of Maharashtra* ((2002) 2 SCC 135), the opposite parties argue that at the threshold stage of framing charges under Section 228 of the Code, the court is not required to meticulously weigh the evidence, judge the ultimate truth or veracity of witness statements, or conduct a premature mini-trial. As long as the case diary materials and chargesheet disclosures generate a strong prima facie case or grave suspicion against the accused, the court is fully justified in rejecting a discharge plea and proceeding to trial.

7. Addressing the defence's heavy reliance on the medical board's opinion regarding causation of the death of Shyamal Bhowmick, the prosecution points out a critical nuance that the petitioners conveniently ignore. While the primary mode of death was a cardiovascular collapse due to a pre-existing heart condition, the expert board of SSKM Hospital explicitly opined that the possibility of sudden cardiac arrest due to vagal stimulation resulting from being kicked on the scrotum or abdomen, or hit by a fist or blow over the pericardial area of the chest or neck, causing a sudden rise of blood pressure in a patient already having a diseased condition of the heart, leading to cardiac arrest cannot be ruled out. The State argues that in criminal jurisprudence, a tortfeasor or assailant must take their victim as they find them. The physical thrashing, kicks, and blows administered by an aggressive mob of trespassers to an elderly, frail man immediately triggered his fatal collapse during a high-stress confrontation. Whether

this act constitutes murder under Section 302 of the Code or culpable homicide not amounting to murder is a mixed question of fact and law that can only be resolved after recording full evidence during a trial, and cannot be prematurely truncated at the threshold. Furthermore, the opposite parties emphasize that the incident was not a spontaneous scuffle, but a calculated, premeditated resistance orchestrated to subvert a lawful execution of a court-mandated land demarcation. The presence of local political influence created an intimidating atmosphere where administrative officials were ignored and the Bhowmick family was brutally targeted. The case diary contains consistent eyewitness testimonies, Section 164 statements, and crucial digital evidence, which collectively establish the active unlawful assembly, common object, and criminal conspiracy. Finally, the State argues that minor discrepancies in witness statements, delays in recording police statements, or the non-recovery of torn garments for the charge of Section 354B IPC are evidentiary matters to be tested through cross-examination during trial, and consequently pray for the outright dismissal of this revisional application and the vacation of any interim stays.

QUESTIONS FOR DETERMINATION

8. Upon a comprehensive evaluation of the rival submissions advanced by the learned counsel for the respective parties, the pleadings, the statutory provisions, and the foundational records, three pivotal questions fall for the determination of this Court:

- i. whether the learned trial court committed any patent illegality, jurisdictional error, or perversity in holding that a meticulous sifting of medical opinions and witness statements for the purpose of discharging the accused would amount to conducting an impermissible mini-trial at the threshold stage of framing charges;
- ii. whether the expert medical board's opinion constitutes a complete absence of prima facie grounds to sustain a charge under Section 302 or 304 of the Indian Penal Code, or whether the nexus between the physical assault and the fatal collapse is a matter exclusively reserved for trial; and
- iii. whether the material collected during investigation discloses sufficient grave suspicion to warrant putting the petitioners on trial under Sections 147, 149, 323, 354B, 302, and 120B of the Indian Penal Code.

DISCUSSION AND CONCLUSION ON QUESTION NO. (I) (SCOPE AND THRESHOLD OF SECTION 227 CRPC):

9. To resolve the first and foundational question as formulated above, this court must examine the precise statutory contours and judicial philosophy governing Section 227 of the Code of Criminal Procedure. The statutory scheme dictates that if, upon consideration of the record of the case and the documents submitted thereunder, the judge considers the charge against the accused to be groundless, they shall discharge the accused. However, jurisprudence across successive

landmark judgments of the Hon'ble Supreme Court has firmly established that "groundless" does not mean a test of absolute proof, infallible certainty, or a premature trial on merits.

10. The parameters of this judicial exercise were authoritatively laid down by the Apex Court in *Niranjan Singh Karam Singh Punjabi v. Jitendra Bhimraj Bijaya & Ors.* [(1990) 4 SCC 76)], wherein it was held that while a judge has the undoubted power to sift and weigh evidence for the limited purpose of finding out whether a *prima facie* case or **grave suspicion** has been made out, the judge cannot act merely as a post office. Yet, this screening process does not permit a roving inquiry into the pros and cons of the matter or a meticulous weighing and testing of witness veracity as if conducting a full-fledged trial.
11. This principle was further reinforced in *Ramesh Singh (supra)* where the Supreme Court observed that:

"Under Section 226 of the Code while opening the case for the prosecution the Prosecutor has got to describe the charge against the accused and state by what evidence he proposes to prove the guilt of the accused. Thereafter comes at the initial stage the duty of the Court to consider the record of the case and the documents submitted therewith and to hear the submissions of the accused and the prosecution in that behalf... At this stage, as was pointed out by this Court... the truth, veracity and the effect of the evidence which the prosecution proposes to adduce are not to be meticulously judged."

Similarly, in *Dilawar Balu Kurane (supra)*, the Apex Court reiterated that if the materials placed before the court disclose grave suspicion against the accused which has not been properly explained, the court

is fully justified in framing a charge and proceeding with trial. Crucially, if two views are equally possible and the evidence gives rise to some suspicion but not grave suspicion, the accused may be discharged; but where the record yells for a trial, a summary ouster is impermissible.

- 12.** Applying these settled legal touchstones to the facts of the present case, the petitioners' primary grievance is that the trial court erroneously brushed aside their detailed medical and evidentiary arguments by invoking the bar against "mini-trials." However, a careful perusal of the trial court's order reveals that the learned Additional Sessions Judge precisely adhered to the mandate of *Niranjan Singh* and *Ramesh Singh*. The defence sought to utilize complex medical board reports, analyse the nuances of cardiovascular failure versus traumatic shock, and highlight minor discrepancies between independent revenue officers and family witnesses, tasks that inherently require cross-examination, expert examination, and the testing of evidence. To accept the petitioners' contentions at this nascent stage would have required the trial court to step into the arena of a mini-trial, weigh conflicting probabilities, and adjudge the ultimate success of the prosecution.
- 13.** Therefore, this Court holds that the learned trial court committed no illegality, jurisdictional error, or perversity in refusing to engage in a premature, microscopic evaluation of the evidence. The trial judge correctly recognized that the materials in the case diary crossed the threshold of mere suspicion and generated a strong, unshakeable *prima*

facie case, thereby justifying the rejection of the discharge application under Section 227 CrPC.

DISCUSSION AND CONCLUSION ON QUESTION NO. (II)
(EVALUATION OF CAUSATION AND THE MEDICAL BOARD
OPINION):

14. Proceeding to the second pivotal question, whether the expert medical board's opinion, which attributed the primary mode of death to a "diseased condition of the heart and pericardium" while simultaneously not ruling out sudden cardiac arrest induced by physical trauma (vagal stimulation), constitutes a complete absence of *prima facie* grounds to sustain a charge under Section 302/304 IPC, or whether the nexus between the physical assault and the fatal collapse is a matter exclusively reserved for trial, this court must analyse the interplay between medical science and criminal culpability.
15. The defence has placed extraordinary emphasis on the post-mortem report and the subsequent opinion of the expert Medical Board from SSKM Hospital, arguing that because the deceased suffered no major traumatic ruptures over the chest pericardial zone, neck, or scrotum, the essential ingredients of a homicidal death under Section 302 IPC are entirely absent. However, a meticulous reading of that very expert opinion reveals a critical caveat that dismantles the petitioners' summary argument: the medical board categorically opined that

"the possibility of sudden cardiac arrest due to vagal stimulation (resulting from being kicked on the scrotum, abdomen or hit by fist, blow over the pericardial area of chest or on neck), causing sudden rise of blood pressure in a patient already having

diseased condition of heart leading to cardiac arrest cannot be ruled out."

- 16.** In criminal jurisprudence, it is a foundational principle that an assailant must take their victim as they find them. The law does not grant immunity to an aggressor merely because the victim possessed a pre-existing vulnerability or a diseased organ. When a frail, elderly individual is subjected to a violent, aggressive physical assault by an unruly mob during a high-stakes confrontation over land demarcation, the direct physiological nexus between the physical trauma administered and the immediate fatal cardiac collapse becomes a crucial question of fact. Whether the collective acts of the petitioners amount to murder under Section 302 IPC, culpable homicide not amounting to murder under Section 304 IPC, or simple hurt under Section 323 IPC depends entirely on the intention, knowledge, and degree of force established through the examination and cross-examination of medical and eyewitnesses during a full-fledged trial.
- 17.** Therefore, answering this question, I hold that the medical board's opinion does not exonerate the petitioners at the threshold; rather, it opens a triable window regarding the causal link between the physical assault and the sudden cardiac death. The evaluation of this nexus, the exact nature of the blows struck, and the requisite criminal intent cannot be prematurely arbitrated through a discharge application under Section 227 CrPC, but must be subjected to the rigorous crucible of a full-fledged trial.

DISCUSSION AND CONCLUSION ON QUESTION NO. (III)
(SUFFICIENCY OF INCRIMINATING MATERIALS IN THE CASE
DIARY):

- 18.** Addressing the third and final question, whether the material collected during investigation (including eyewitness accounts, Section 164 CrPC statements, digital video evidence of the melee, and the context of obstructing a High Court-mandated land survey) discloses sufficient **grave suspicion** to warrant putting the petitioners on trial under Sections 147, 149, 323, 354B, 302, and 120B of the Indian Penal Code, I must evaluate the totality of the record compiled by the investigating agency.
- 19.** The petitioners have strenuously argued that minor discrepancies, a five-month delay in recording the statements of vital witnesses, contradictory accounts between interested family members and independent administrative officials (the Revenue Officer and Revenue Inspector, CSW Nos. 17 and 18), and the alleged non-recovery of torn wearing apparels render the prosecution's case fundamentally infirm. They further contend that certain petitioners were not even present at the scene. However, it is well-settled that at the stage of framing charges, a court cannot act as a fact-finding authority or weigh the credibility of witness testimonies. Discrepancies, delays, and questions of alibi or presence are quintessential matters of defence that must be tested through rigorous cross-examination during a trial, not utilized as grounds to truncate a prosecution prematurely.

- 20.** A holistic perusal of the case diary reveals a compelling tapestry of incriminating materials. The investigation uncovered consistent eyewitness testimonies, judicial statements recorded under Section 164 CrPC by female family members, and crucial digital evidence in the form of a mobile phone video clip capturing the active assault during the chaotic confrontation. The backdrop of the incident, a premeditated resistance orchestrated by local political influence to subvert a lawful administrative survey mandated by the Hon'ble High Court, establishes a strong *prima facie* foundation of an unlawful assembly sharing a common object. The collective acts of the mob, the targeted physical violence against the elderly victim, and the resulting tragedy collectively generate much more than a mild suspicion; they give rise to **grave suspicion** pointing directly toward the complicity of the petitioners.
- 21.** Therefore, answering this question, I hold that the materials collected in the case diary are more than sufficient to sustain the charges framed by the prosecution. The trial court was fully justified in concluding that the record warrants a full-fledged trial rather than a summary discharge.
- 22.** In light of the foregoing discussions, this Court finds no patent illegality, perversity, or jurisdictional error in the impugned order dated February 21, 2023, passed by the learned Additional Sessions Judge, Amta, Howrah, in Sessions Trial Case No. 75 of 2019. The learned trial judge rightly exercised discretion by refusing to conduct a mini-trial at the threshold stage of Section 227 of the Code of Criminal Procedure.
- 23.** Accordingly, **CRR No. 1176 of 2023 stands dismissed.**

- 24.** Any interim order of stay passed earlier stands vacated.
- 25.** The learned trial court is directed to proceed expeditiously with the framing of charges and conduct the trial in accordance with law, uninfluenced by any observations made herein.
- 26.** Let a copy of this judgment be transmitted to the learned trial court forthwith for information and necessary compliance.
- 27.** There shall be no order as to costs.
- 28.** Case diary, be returned to the Learned Counsel for the State.
- 29.** Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Uday Kumar, J.)