

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

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

CRR 2992 OF 2023

**SRI SAYAN MONDAL
-VS-
THE STATE OF WEST BENGAL**

For the Petitioner : Mr. Shayan Sachin Basu

For the State : Dr. Achin Jana,
Ms. Kritika Jain

Reserved on : 18.09.2026

Pronounced on : 25.09.2026

UDAY KUMAR, J.: –

1. By this criminal revisional application preferred under Section 482 read with Sections 395/397 of the Code of Criminal Procedure, 1973, the de facto complainant/petitioner has called in question the legality, validity, and propriety of the order dated 27.06.2023 passed by the 6th Court of the learned Additional Sessions Judge, in-charge of the 1st Court-cum-Special Court under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Alipore, South 24-Parganas, in Special Case No. 89 of 2022. By the said impugned order, the learned Special Court rejected the na-raji (protest) petition filed by the

petitioner, accepted the Final Report True, No Clue (FRT) submitted by the police, and dropped the special proceeding.

- 2.** The short facts leading to the present filing are that the petitioner, belonging to the Scheduled Caste community, lodged a written complaint on 21.09.2022 at about 9:45 PM alleging that the accused persons—namely, Rabiul Islam Bulbul and Sayan Dutta—belonging to the general caste, hurled foul, unparliamentary, and casteist expletives targeting his caste identity, religion, God, and family through the social media platform ‘Facebook’, enclosing digital screenshots thereof. The said complaint culminated in Behala Police Station Case No. 274 dated 17.10.2022 under Section 3(1)(r)/(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, which was subsequently renumbered as Special Case No. 89 of 2022.
- 3.** During the course of investigation, the Investigating Officer recorded the statement of the de facto complainant under Section 164 of the Cr.P.C., recorded Section 161 Cr.P.C. statements of independent witnesses, and prepared a formal seizure list in respect of the digital links and screenshots. However, the police submitted an FRT ("Nil/No clue") on 20.01.2023 stating that assistance sought from the Facebook authority through the Cyber Police Station, Kolkata, yielded no actual user particulars from Facebook. Upon receipt of notice of closure, the petitioner filed a na-raji petition on 14.02.2023. By the impugned order dated 27.06.2023, the learned Special Court rejected the na-raji petition holding that since charge sheets had been filed in three other special cases instituted by the same complainant (Spl. Case Nos.

50/2021, 31/2022, and 9/2022), and a "Nil" charge sheet/FRT was filed here after due investigation, no cogent reason to nullify the said FRT and order re-investigation was made out.

4. Learned counsel appearing for the petitioner submits that the Trial Court committed a patent error in law by treating a multiplicity of prior or parallel complaints filed by the petitioner as a negative filter or disqualification to evaluate a distinct atrocity complaint. It is urged that prima facie cognizable ingredients under Section 3(1)(r)/(s) of the SC/ST Act are writ large in the FIR, the Section 164 statement, and the seized digital evidence. The inability of local cyber cells to extract data from social media intermediaries cannot wash out criminal culpability or license a perfunctory dead-end closure without invoking specialized supervisory or cyber-forensic channels.
5. Learned counsel for the State defends the impugned order, submitting that the investigation was duly conducted and, upon failure to trace user ID particulars through cyber channels, a true closure report was rightly submitted. Relying on *K. Vadivel v. V. Shanthi & Ors.* [(2024) 19 SCC 382], learned counsel submits that the power under Section 173(8) Cr.P.C. must be invoked cautiously and only in exceptional circumstances, that an order granting further investigation cannot be passed in the absence of relevant, newly discovered facts/material evidence.
6. I have heard learned counsel for the respective parties and perused the materials on record, including the impugned order, FIR, Section 164 statement, and seizure documentation.

7. The core question that falls for determination is whether the acceptance of a "Nil/No clue" FRT and the rejection of the na-raji petition—resting on the circumstance that charge sheets had been filed in other unrelated special cases instituted by the same complainant—is legally sustainable.
8. It is no longer *res integra* that upon submission of a final report, the Magistrate or Special Judge is duty-bound to evaluate the protest/na-raji petition independently on its merits to ascertain whether cognizable material has been overlooked or if the investigation has been perfunctory, as expounded by the Hon'ble Supreme Court in *Bhagwant Singh v. Commissioner of Police & Anr.*, [(1985) 2 SCC 537].
9. What shocks judicial conscience in the instant case is the reasoning adopted by the learned Special Judge, that because the complainant had filed three other special cases where charge sheets were submitted, the "Nil" report in the present case must be accepted. Criminal jurisprudence examines every distinct criminal transaction and occurrence on its own foundational worth and evidentiary matrix. A litigant's resort to law in prior or parallel separate transactions can never form a legal basis to non-suit or presume a lack of merit in a distinct subsequent grievance of casteist insult committed via digital media. Such reasoning is perverse and contrary to the basic tenets of criminal adjudication.
10. Furthermore, under Section 3(1)(r)/(s) of the SC/ST Act, public view transcends physical space into the digital domain. When electronic screenshots and links are formally seized under a seizure list and

corroborated by a Section 164 statement, the investigating agency cannot throw up its hands reporting "no clue" merely because a local cyber inquiry hit a dead end with an intermediary (Facebook/Meta), without exhausting specialized State CID cyber-forensic or IP-log tracking protocols. The failure of the trial court to direct further investigation through a higher supervisory rank (such as the Deputy Commissioner of Police tier or a specialized cyber cell) in the face of such digital material causes a serious miscarriage of justice, as held by the Hon'ble Supreme Court in *Vinay Tyagi v. Irshad Ali alias Deepak & Ors.*, [(2013) 5 SCC 762].

- 11.** The decision of *K. Vadivel (supra)* relied on by the opposite party, being factually distinguishable, is not apposite to decide the present revisional application.
- 12.** Concluding the discussion made above, this Court answers the question for determination in negative, in favour of the petitioner. The impugned order dated 27.06.2023 passed in Special Case No. 89 of 2022 by the 6th Court of the learned Additional Sessions Judge, in-charge of the 1st Court-cum-Special Court at Alipore, South 24-Parganas, cannot be sustained in law.
- 13.** Accordingly, the impugned order dated 27.06.2023 is set aside.
- 14.** The acceptance of the FRT and the dropping of Special Case No. 89 of 2022 are hereby quashed.
- 15.** The matter is remanded to the Special Court, Alipore, with a direction that further investigation into Behala Police Station Case No. 274 dated 17.10.2022 shall be conducted under the direct supervision of the

Deputy Commissioner of Police (South-West Division / Specialized Cyber Cell supervisory tier, Kolkata Police). The supervisory authority shall deploy specialized cyber-forensic personnel to trace the digital footprints and profile logs of the offending posts and submit a police report under Section 173(8) of the Cr.P.C. before the jurisdictional Special Court within three months from the date of communication of this order.

- 16.** The Special Court shall thereafter proceed in accordance with law.
- 17.** C.R.R. 2992 of 2023 is, accordingly, allowed.
- 18.** Connected application(s), if pending, stand disposed of.
- 19.** Interim order(s), if any, stands vacated.
- 20.** There shall be no order as to costs.
- 21.** Let a copy of this judgment be transmitted to the Learned Trial Court forthwith along with the Trial Court Records.
- 22.** Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Uday Kumar, J.)