

08.09.2026

Item nos.19&20.

Ct. No.237

Suman

C.R.R. 3197 of 2026

Shivnath Bhattacharya

Vs.

The State of West Bengal and Anr.

With

CRR 1119 of 2026

Mosiar Rahman Laskar

Vs.

The State of West Bengal and Anr.

Mr. Lakshminath Bhattacharya

Mr. Subhankar Bose

..for the petitioner in C.R.R. 3197 of 2026 and
respondent in CRR 1119 of 2026

Mr. Debapriya Samanta

Mr. Raktim Siddhanta

..for O.P. No.2 in C.R.R. 3197 of 2026 and the
petitioner in CRR 1119 of 2026

Mr. Somnath Adhikary

Ms. Madhurai Sinha

..for the State

Let the appointment of Mr. Somnath Adhikary, along
with Ms. Madhurai Sinha, learned advocates appearing for the
State in CRR 1119 of 2026, be regularized.

Both the revisional applications are taken up for hearing
and are disposed of by this common order.

It appears that Shivnath Bhattacharya, the petitioner in
C.R.R. 3197 of 2026, lodged an FIR before Baruipur Police
Station alleging, inter alia, the theft of a bus bearing
registration No. WB-19-G8950 on March 3, 2020. It was

alleged that one Mosiar Laskar, son of Barjahan Laskar (the petitioner in CRR 1119 of 2026) was involved in the theft of the bus. It was further alleged in the complaint that the petitioner had purchased the bus from Barjahan Laskar.

Following the complaint, an FIR was registered under Section 303(2) of the Bharatiya Nyaya Sanhita, 2023, on May 25, 2025. After registration of the FIR, the Investigating Agency seized the relevant vehicle on June 26, 2025. Thereafter, Mosiar Rahman Laskar, filed a petition seeking return of the vehicle in his favour.

By an order dated July 7, 2025, the learned Magistrate directed the return of the vehicle in favour of the registered owner, namely, Barjahan Laskar, upon execution of a 'zimanama' bond of Rs. 6,00,000/-, with a condition that the vehicle shall not be alienated, encumbered, or its nature and character changed in any manner, and that the same shall be produced as and when directed, at the cost of the petitioner, without any delay.

It appears that thereafter Shivrath Bhattacharya filed a copy of the sale agreement in respect of the vehicle executed by Barjahan Laskar before the learned Magistrate. The learned Magistrate called for a report from the Investigating Agency regarding the signature of Barjahan Laskar appearing in the said agreement for sale. Upon receipt of the report, the learned Magistrate was satisfied that the sale agreement in respect of the vehicle contained the signature of Barjahan Laskar.

Accordingly, by an order dated February 24, 2026, the learned Magistrate directed Barjahan Laskar to produce the vehicle in question.

The said order was challenged by Mosiar Rahman Laskar by filing CRR 1119 of 2026 before this Court. It is rather surprising and concerning that, despite no order of stay having been granted in CRR 1119 of 2026, it was communicated to the learned Magistrate before the Court below, on June 10, 2026, by the learned advocate representing Barjahan Laskar, that this Court had passed an order of stay on February 24, 2026.

In view of such communication, the learned Magistrate declined to pass any further order in the case and fixed August 6, 2026, for further hearing.

Shivnath Bhattacharya has challenged the said order dated June 10, 2026, by filing CRR 3197 of 2026, contending, inter alia, that the learned Magistrate in the Court below ought not to have deferred the matter since there is no stay order in CRR 1119 of 2026.

Learned advocate representing Mosiar Rahman Laskar in CRR 1119 of 2026 submits that the learned Magistrate in the Court below has recalled the order dated July 7, 2025, by the order dated February 24, 2026, and that such order is clearly barred by Section 362 of the Code of Criminal Procedure, 1973, corresponding to Section 403 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

I do not find any justification in such submission. It is clear that, by the order dated July 7, 2025, Barjahan Laskar was granted temporary custody of the vehicle with a direction to produce the same as and when directed. Therefore, the learned Magistrate in facts of the case was justified in directing the Investigating Agency to re-seize the vehicle from Barjahan Laskar and produce the same before him. The order dated February 24, 2026, can in no way be interpreted as a recalling order of the order dated July 7, 2025.

In view of the aforesaid, I do not find any justification to keep these two applications pending. Accordingly, both the applications are disposed of with a direction upon the learned Magistrate to take necessary steps to implement the order dated February 24, 2026, in accordance with law. The learned Magistrate will be at liberty to take appropriate steps against Barjahan Laskar as well as Mosiar Rahman Laskar if they fail to comply with the order dated February 24, 2026.

I now turn to the issue of the alleged misleading of the learned Magistrate with regard to the orders passed in CRR 1119 of 2026.

Learned advocate appearing for Mosiar Rahman Laskar submits that no communication was made to the learned advocate appearing before the learned Magistrate regarding any order of stay having been granted in CRR 1119 of 2026.

This Court is not inclined to enter into or adjudicate upon such disputed question.

The learned Magistrate before the Court below shall, however, be at liberty to take such necessary steps as may be permissible in law against the concerned advocate, if it is found that the learned Magistrate was misled with regard to the order passed in CRR 1119 of 2026.

Accordingly, **C.R.R. 3197 of 2026** and **CRR 1119 of 2026** are disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)