

22.4.2021

**ks.**

Ct. 42, sl.24

**CRR 911 of 2021**  
(Via video conference)

Vinod Ghawla  
vs  
The State of West Bengal

Mr. Arik Banerjee,  
Mr. Joyjit Dutta  
... For Petitioner.  
Mr. Madhusudan Sur,  
Mr. Dipankar Paramanick  
... For the State.

Mr. Arik Banerjee, learned Advocate appearing in virtual mode for the petitioner taking resort to Sections 82 and 83 of the Code of Criminal Procedure submits that there cannot be any composite order issuing warrant of arrest and proclamation followed by attachment. Mr. Banerjee representing the petitioner surrenders his prayer for quashing and thereby restricting his prayer against the impugned order dated 26<sup>th</sup> August, 2014 issuing WPA simultaneously, which according to petitioner is the only subject of challenge in this revisional application.

Mr. Sur, learned Additional Public Prosecutor representing the State submits that the petitioner is a long absconder and warrant of arrest was issued against the petitioner on 10<sup>th</sup> October, 2013. Subsequently, WPA was issued against the petitioner on 26<sup>th</sup> August, 2014.

The petitioner is a admittedly booked in this case (GR Case No.145(1)/2009) now pending before the learned Additional District & Sessions Judge, Kurseong, Darjeeling for his alleged

involvement in connection with an offence under Sections 411/414/468 and 471 of the Indian Penal Code.

It is contended by Mr. Banerjee that upon fulfilment of the circumstances laid down in Sections 82 and 83 of the Code of Criminal Procedure, the learned court below can only issue proclamation and attachment in a case, where there has been warrant of arrest issued previously against the absconding accused.

In this case warrant of arrest was issued against the petitioner on 10<sup>th</sup> October, 2013 but the same could not be executed against the petitioner due to the petitioner having evaded execution of warrant of arrest.

Upon perusal of the impugned order, it appears that by the impugned order dated 26<sup>th</sup> August, 2014, the learned court below was pleased to pass an order issuing warrant of arrest and proclamation followed by attachment in one go by composite order without receiving any non-execution report of warrant of arrest.

Since the details of the procedure laid down in Sections 82 and 83 of the Code of Criminal Procedure, have not been strictly followed in this case, there is justification to interfere with the impugned order, for the apparent infraction of the provisions of the law, contained in Sections 82 and 83 of the Code of Criminal Procedure. The revisional application is thus allowed and the impugned order dated 26<sup>th</sup> August, 2014 is set aside. This will not preclude the learned court below from issuing any Tagid for

execution of warrant of arrest, which has already been issued against the revisionist/petitioner.

With this direction and observation, the instant revisional application stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given the parties upon compliance of all the formalities.

**(Subhasis Dasgupta, J.)**