

03.06.2021
Item no.4
Ct. No.42
CHC

**C.R.R. No.1322 of 2021
(Through Video Conference)**

In the matter of:-
Anuj Sharma
... petitioner

Mr. Manjit Singh
...for the petitioner

Mr. Saswata Gopal Mukherji, Ld. P.P.
Mr. Rana Mukherjee, Ld. A.P.P.
Mr. Dipankar Paramanick
...for the State

The impugned order dated 8th March, 2021, passed by Learned Chief Judicial Magistrate, Howrah in G.R. Case No.1 of 2020 under Sections 302/120B/34 of the Indian Penal Code issuing Warrant, Proclamation along with Attachment simultaneously is the subject of challenge in this revisional application.

Learned advocate for the petitioner/revisionist 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 in one go.

Argument is raised by learned advocate for the petitioner that that upon fulfillment of the circumstances laid down in the Code of Criminal Procedure, learned Magistrate can only issue Proclamation and Attachment in a case, where there has been

Warrant of Arrest issued previously against the absconding accused.

Learned advocate representing the State submits that previously petitioner approached this Court in connection with a revisional application being C.R.R.1926 of 2020 praying for quashment, which was refused by this Court with observation that the petitioner should be at his liberty to offer himself to the course of law after adhering to the provisions of the law, which is independent of the instant revisional application proposing quashment.

Learned advocate for the State further contends that the conduct of the petitioner is not very satisfactory as in November, 2020 Warrant of Arrest was issued against the petitioner and thereafter, the petitioner even did not surrender before the court below by offering himself to the course of law, as per observation of the revisional court passed in aforementioned revisional application.

The situation as it stands is that Warrant of Arrest was issued in November, 2020 and the case was awaiting for report as regards execution of the Warrant of Arrest issued against the petitioner.

Upon perusal of the impugned order, it appears that by the impugned order, the learned court below was pleased to pass an order issuing Warrant of Arrest and Proclamation followed by attachment in one go by a composite order even on the date, when the case was awaiting execution report of the Warrant of Arrest.

Having considered the submission of both sides, it appears that the procedure laid down in Sections 82 and 83 Cr.P.C. has not been duly followed in this case and the WPA has been issued without adhering to the provisions of the law, as contemplated under Sections 82 and 83 of the Code of Criminal Procedure. Where there has been apparent infraction in the provisions of the law, the Court has every right to take care of the infraction of the right so as to make the court below discharge its judicial function within its bounds of law. The instant revisional application is thus allowed and the impugned order is set aside.

This will, however, not preclude the learned court below from issuing any tagid for execution of Warrant of Arrest, which has already been issued against revisionist/petitioner.

It is further clarified that learned court below in appropriate circumstances will be free to resort to Sections 82 and 83 of the Code of Criminal Procedure even upon receiving the prayer from investigating officer to that effect.

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

Urgent Xerox certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Subhasis Dasgupta, J.)