

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

**IA No.: CRAN/1/2022
in
CRR 1050 of 2021**

**Saurav Kumar Mitra @ Sourav Mitra
Vs.
The State of West Bengal & Anr.**

**For the petitioner : Mr. Uday Sankar Chatterjee,
Mr. Suman Sankar Chatterjee, Adv.,
Mr. Santanu Maji, Adv.**

**For the State : Mr. Swapan Banerjee, Adv.,
Mr. Suman De, Adv.**

**Heard &
Judgement on : 18.07.2022.**

Bibek Chaudhuri, J.

Though, in the instant revision, petitioner being charge-sheeted accused no. 3 has prayed for quashing of further proceedings in G.R. Case No. 3684/2020 arising out of Burdwan Police Station Case No. 661/2020 dated 23rd October, 2020 under Sections 341/323/504/34 of the Indian Penal Code, the petitioner has practically challenged the legality and validity of an order dated 14th December, 2020 and 12th January, 2021 where the Learned Chief Judicial Magistrate, Burdwan took cognizance of offence under Sections 341/323/504/34 of the

Indian Penal Code against the petitioner and two other accused persons and issued warrant of arrest against the present petitioner.

It appears from the order dated 14th December, 2020 that the Learned Chief Judicial Magistrate, Burdwan took cognizance of offence against the accused persons in respect of a summons procedure case. In a summons case without issuing notice to the petitioner, the Learned Magistrate directly issued warrant of arrest against him.

By any stretch of imagination the order dated 14th December, 2020 cannot be justified because on submission of charge-sheet in a summons case the Learned Magistrate is empowered to issue summons first to the accused persons and then if the accused fails to appear in pursuance to summons the Learned Magistrate under his discretion is empowered to issue warrant of arrest against him. He cannot directly issue warrant of arrest on receipt of charge-sheet of a summons procedure case.

For the reasons stated above, I do not find any reason to justify the orders dated 14th December, 2020 and 12th January, 2021 so far as it relates to the present petitioner regarding issuance of warrant of arrest.

Therefore, the order of issuance of warrant of arrest against the petitioner passed by the Learned Chief Judicial Magistrate, Burdwan on 14th December, 2020 is set aside.

The petitioner is directed to appear before the Trial Court within two weeks from the date of this order.

The petitioner is at liberty to communicate server copy of this order to the Learned Chief Judicial Magistrate, Burdwan for information and compliance.

The instant revision is, thus, **disposed of.**

(Bibek Chaudhuri, J.)

Srimanta, A.R.(Ct.)
Item No. 14