

Form J(1)

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

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

C.R.R. 1723 of 2022

***Morian Bibi
Vs.
State of West Bengal & Ors.***

**For the petitioner : Mr. Kaushik Gupta, Adv.
Mr. Arijit Bhusan Bagchi, Adv.
Ms. Nipa Sarkar, Adv.**

**For the State : Mr. Narayan Prasad Agarwala, Adv.
Ms. Subhasree Patel, Adv.
Mr. Pratick Bose, Adv.**

Heard on : 03.11.2022

Judgment On : 03.11.2022.

Bibek Chaudhuri, J.

The instant criminal revision is a glaring example of lackadaisical approach of the Trial Court as well as police authority causing delay of dispensation of justice in a criminal case and thereby violating the basic cannon of fundamental rights.

In connection with Shasan Police Station Case No.100 of 2016, the Investigating Officer submitted charge-sheet under Section 363/366A/370(4)/120B of the Indian Penal Code and Sections 5 & 6

of the Immoral Traffic (Prevention) Act and Section 4 of the Protection of Children from Sexual Offences Act.

Suffice it to say that the said case is pending before the learned Judge, Special Court (POCSO Act) at Barasat. The charge-sheet was issued against four accused persons, out of whom three accused persons were shown as absconding. The Investigating Officer prayed for issuance of warrant of arrest and subsequent proclamation and attachment against the said charge-sheeted accused persons. The remaining accused namely Sunil Singh was under custody and sent for trial.

The learned Trial Judge took up the case against Sunil Singh alone for trial splitting the record as against the remaining accused persons as police failed to execute warrant of arrest and proclamation and attachment against them. The learned Trial Judge framed charge against the accused under Sections 370/370A/373/376(2) of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act against the above-named accused. When the charge was read over and explained to accused, the accused pleaded not guilty and accordingly, trial commenced. During trial the victim girl was examined by the learned Trial Judge and her examination in chief and cross-examination was concluded on 6th June, 2017.

On 8th June, 2017, an application for bail was filed on behalf of the accused Sunil Singh. The learned Trial Judge granted bail to the accused vide order dated 8th June, 2017 on the ground that during cross-examination, the victim girl stated that she had a love affair with the accused. The accused provided due care and protection to her but the villagers wanted to dissolve the marriage between the accused Sunil and the victim girl as it was an inter region marriage. Immediately after the accused being released on bail, he remained absent causing stoppage of further hearing of the case. The learned Trial Judge finally issued warrant of arrest against the accused on 4th July, 2018. Subsequently for last 3 years, one after another date was fixed mechanically for execution report of the warrant of arrest issued against the above-named accused but no report was submitted by the police authority.

On 15th June, 2022 this Court directed the learned Public Prosecutor-in-Charge to submit a status report as to why warrant of arrest could not be executed.

One Monirul Islam Sarkar of Shasan Police Station submitted a report, stating, *inter alia*, that the warrant of arrest issued against the accused has not been received by the Officer-in-Charge of Shasan Police Station till date. Therefore, question of execution of warrant of arrest and taking step in respect thereof do not arise at all.

I have heard the learned Advocate for the petitioner and the learned Public Prosecutor-in-Charge.

This Court fails to understand as to why the warrant of arrest issued by the Trial Judge on 17th February, 2018 and again on 5th January, 2019 was not transmitted to the local police station. If it is not transmitted to the local police station, it is an instance of dereliction of duty by the office of the learned Special Judge, POCSO Act. Therefore, the learned Special Judge, POCSO Act, Barasat is directed to be more vigilant regarding issuance of warrant of arrest and transmission of record from his Court to the concerned police station/department in respect of not only the present accused but also all accused persons.

Be that as it may, we are concerned with expeditious disposal of the case pending before the learned Special Judge, (POCSO Act) at Barasat. Therefore, the instant revision is disposed of directing the learned Trial Judge to issue fresh warrant of arrest against accused Sunil Singh within 7 days from the date of communication of this order and send the same directly to the Inspector-in-Charge, Shasan Police Station for execution with intimation to the Superintendent of Police, North 24 Parganas requesting him to supervise the process of execution against the accused.

The learned Trial Judge is further directed to take proactive step directing the police authority to submit execution report of warrant of arrest and warrant of proclamation and attachment pending against other three accused persons within the above time framed.

The police authority is directed to submit execution/non-execution report within one month from the date of receipt of the warrant of arrest.

The learned Trial Judge shall further act on receipt of such execution /non-execution report of the warrant of arrest. He is also directed to take all endeavour to come to a logical conclusion of the case pending against the accused in the Court below expeditiously.

(Bibek Chaudhuri, J.)

***Mithun De/
A.R. (Ct).
SI No.4.***