

24.02.2023

Sl. No.16.

Mithun.

Ct.No.42.

CRR/70/2023

**Bubai Nandy @ Bittu
Vs.
State of West Bengal**

Mr. Pawan Kumar Gupta, Adv.

Ms. Sofia Nesar, Adv.

Mr. Santanu Sett, Adv.

Mr. Abhijit Bose, Adv.

...for the petitioner.

Mr. Sandip Chakrabarty, Adv.

...for the State.

This is an application assailing the orders dated 11th August, 2022 and 12th September, 2022 wherein the learned Chief Judicial Magistrate, Howrah issued a composite order of W/P & A against the absconding accused persons without complying with the provisions under Sections 82 and 83 of the Code of Criminal Procedure.

Having heard the learned Advocate for the petitioner, this Court is of the view that the instant revision can be disposed of with the assistance of the learned Public Prosecutor-in-Charge.

Therefore, Mr. Sandip Chakrabarty, learned Public Prosecutor-in-Charge is requested to assist this Court on behalf of the State.

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

It is frankly submitted by Mr. Chakrabarty, learned Public Prosecutor-in-Charge that Section 82 of the Code of Criminal Procedure provides issuance of proclamation for person absconding. The section states that if the Magistrate has the reason to believe that any person against whom a warrant is issued will not surrender before the Court or the warrant cannot be executed, the Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation. On publishing of proclamation the accused is treated as proclaimed offender.

Section 83 of the Code of Criminal Procedure is the next step to be taken by the learned Magistrate when during the time prescribed the proclaimed offender does not appear only in such case, the Magistrate can pass an order directing attachment of property of the accused.

Therefore, issuance of composite order of W/P & A is not permissible under the Code.

In view of such circumstances, the impugned orders dated 11th August, 2022 and 12th September, 2022 are set aside.

The learned Magistrate is at liberty to take proper step following Sections 82 and 83 of the Code of Criminal Procedure against the petitioner.

(Bibek Chaudhuri, J.)

