

Form J(1)

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

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

CRR 292 of 2023

**Mahabur Mandol
Vs.
State of West Bengal**

**For the petitioner : Mr. Pawan Kumar Gupta,
Mr. Subrata Saha,
Mr. Vijay Verma,
Mr. Santanu Sett,
Ms. Sofia Nesar.**

For the State : Ms. Puspita Saha.

Judgement on : 26.04.2023.

Bibek Chaudhuri, J.

The petitioner has challenged an order dated 25th February, 2022 passed by the learned Additional Sessions Judge, 3rd Court at Balurghat, Dakshin Dinajpur whereby the learned Judge simultaneously issued warrant of proclamation and attachment against the petitioner. Having heard the learned Advocate for the petitioner and on perusal of the instant revision as well as the impugned order this Court is of the view that the instant revision can be disposed of here and now with the assistance of the learned Public Prosecutor-in-Charge.

Therefore, Ms. Puspita Saha, learned Public Prosecutor-in-Charge is requested to assist this Court on behalf of the State of West Bengal.

Chapter VI of the Code of Criminal Procedure deals with processes to compel appearance of the accused and witnesses. Sub-Chapter C of Chapter VI deals with proclamation and attachment. Section 82 (1) states:-

"If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than 30 days from the date of publishing such proclamation. Sub-Section 2 of Section 82 deals with the requirement relating to publication of proclamation".

Thus, when an accused is not arrested on the strength of warrant of arrest order of proclamation can be issued against him and the accused is declared as a proclaimed offender, even after declaration of proclaimed offender, the accused fails to appear before the Court, the Court will pass the order of attachment of property of the person absconding. Thus, a combined order of proclamation and attachment cannot be passed by the learned Magistrate or the learned Judge.

In view of such discussion the order dated 25th February, 2022 is set aside on the ground that the said order was passed without complying with the provision of Section 82 of the Code of Criminal Procedure. Accordingly, the instant revision is allowed without any costs.

(Bibek Chaudhuri, J.)

Srimanta, A.R.(Ct.)
Item No. 25.