

12-07-2023
Subha
Item no. 28
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 812 of 2022

Morich Mondal & Anr.
-versus-
State of West Bengal & Anr.

Mr. Sukanta Chakraborty
Mr. Anindya Halder
...for the petitioners.

Mr. Ranabir Roy Chowdhury
Mr. Mainak Gupta
....for the State.

Learned advocate for the petitioners reserves their right to challenge the proceedings after consideration of the charges by the trial court.

Mr. Chakraborty, learned advocate appearing on behalf of the petitioners expresses his dissatisfaction regarding the manner in which the order of proclamation and attachment has been issued by the learned Chief Judicial Magistrate, Howrah. To that effect, the learned advocate draws the attention of this court to the order dated 11th June, 2021 wherein the learned C.J.M, Howrah without recording any subjective satisfaction simultaneously issued proclamation and attachment against the present petitioners.

I have perused the order dated 11th June, 2021 and I find that there was no non-execution report from any police officer or

any subjective satisfaction recorded by the learned Chief Judicial Magistrate, Howrah to invoke the provisions of Section 82 of the Code of Criminal Procedure. Further, the proclamation and attachment have been issued simultaneously which is absolutely against the statutory provisions.

Thus, the part of the order, which relates to issuance of proclamation and attachment is concerned, the same is set aside. However, the warrant of arrest which has been issued will be in force. The Investigating Authority/Police Authority would submit their report and make fresh prayer for proclamation which the learned Chief Judicial Magistrate, Howrah would consider in accordance with law.

With the aforesaid observations, the revisional application being CRR 812 of 2022 is disposed of.

Pending applications, if any, are consequently disposed of.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

[Tirthankar Ghosh, J]

