

Form J(1)

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

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

CRR 1024 of 2023

**Rishabh Bengani
Vs.
The State of West Bengal & Anr.**

Mr. Moyukh Mukherjee
Ms. Shayanti Poddar
..for the petitioner

Item No. 35

Heard & Judgment on: 23.03.2023

Bibek Chaudhuri, J.

The opposite party No.2 was a recorded tenant in respect of a warehouse under the petitioner. The tenant entrusted his nephew to look after the warehouse on behalf of him. It is alleged that without getting any instruction of the opposite party No.2 the said nephew surrendered the tenancy in favour of the landlord and the landlord inducted some other persons in respect of the tenanted property.

It is needless to say that the privity of the contract of tenancy was between the petitioner No.1 and the opposite party No.2. The nephew of the opposite party No.2 was entrusted to manage the affairs of the business on behalf of the opposite party No.2. This authorization does not permit him to surrender the tenancy.

The opposite party No.2 lodged a complaint against his nephew, landlord and the subsequent tenants alleging misappropriation of money and forgery. The Investigating Officer did not consider the aspect as to whether there was any under hand agreement between the landlord, nephew of the opposite party No.2 and the subsequent tenants. There is every reason to suspect the conduct of the landlord as to why he accepted surrender of tenancy not being authorized by the actual tenant.

In view of circumstances, I do not find any illegality in the impugned order dated 15th December, 2022 passed by the learned Additional Chief Judicial Magistrate at Sealdah. The Investigating Officer is directed to proceed with the further investigation of the case. However, no coercive step shall be taken against the petitioner without permission of the trial Court.

The instant revision is, thus, disposed of.

(Bibek Chaudhuri, J.)

