

10.09.2024
rc/ct.no.34
Item No.15

CRR No. 2662 of 2024

**In the matter of : Moharaj Sk. @ Rabiul Sk. & Ors.
.....Petitioners**

Mr. Sekhar Kumar Basu
Mr. Antarikhya Basu
Mr. Sayan Mukherjee ...for the Petitioners

Mr. Debasish Roy
Mr. Rudradipta Nandy
Ms. Sanjana Saha ...for the State

Mr. Tapodip Gupta ...for the O.P.No.2

Affidavit of service filed on behalf of the petitioners is taken on record.

Heard learned counsels for the parties.

The petitioners are aggrieved by the order passed by the learned Additional Chief Judicial Magistrate, Kandi, Murshidabad on June 15, 2024 issuing warrant of proclamation and attachment against them.

It appears that charge sheet was submitted before the learned Trial Court on May 11, 2024 and warrant of arrest was issued against the petitioners fixing June 18, 2024 for execution return. Strangely, on June 15, 2024 the Investigating Officer prayed for issuance of warrant of proclamation and attachment against the petitioners and the prayer was allowed. The order does not reflect that non-execution report with regard to the warrant of arrest was filed by the Investigating Officer before making such

prayer. Also, there is no explanation as to why the matter was taken up on June 15, 2024 despite date being fixed on June 18, 2024. Warrant of proclamation and arrest was issued mechanically by the learned Magistrate without conforming TO the provisions laid down under Sections 82/83 of the Code of Criminal Procedure.

In view of the above, this Court is inclined to hold that issuance of warrant of proclamation and attachment simultaneously without complying with the provisions laid down under Sections 82/83 of the Code is bad in law and therefore, the order impugned is required to be set aside/quashed.

The order dated June 15, 2024 passed by the learned Additional Chief Judicial Magistrate, Kandi, Murshidabad in G.R.Case No. 328 of 2024 is quashed.

CRR No. 2662 of 2024 is disposed of.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh,J)