

20
18-09-2024
Ct. No.34
b.das

CRR No. 3574 of 2024

+
CRAN 1 of 2024

In the matter of : Manojit @ Monojit Banik & Anr.
..... petitioners.

Mr. Shibaji Kr. Das
Mr. Dipendu Sarkar
Ms. Deblina De ...for the petitioners.

Mr. Debasish Roy
Mr. Arijit Ganguly
Ms. Rajnandini Das ...for the State.

Affidavit of service filed by the petitioners is taken on record. Notice upon the private opposite party has returned with an endorsement "Refused" which amounts to good service.

None appears for the private opposite party despite service.

Report submitted by the State is taken on record.

Heard learned counsels for the parties.

By consent of the parties the revisional application is taken up for consideration.

The petitioners have assailed the orders passed by the learned Additional Judicial Magistrate, Kalyani, Nadia on 6th June, 2024, 8th July, 2024 and 12th August, 2024 on the ground that the petitioners were granted bail by the

learned Magistrate vide order passed on 10th April, 2024 in connection with Chakdaha P.S. Case No.348 of 2024 dated 28th March, 2024. Charge sheet was submitted on 18th April, 2024 and warrant of arrest was issued against the petitioners without service of summons upon them after submission of charge sheet.

The petitioners were not aware of the date fixed by the learned Magistrate. Warrant of proclamation and attachment was also issued against the petitioners in violation of Sections 82/83 of the Code of Criminal Procedure.

The petitioners seek to surrender before the learned Magistrate within seven days from date and pray for liberty to remain on the same bond.

Learned counsel for the State places reliance on the report submitted this date.

It appears that the petitioners were granted bail by the learned Magistrate vide order passed on 10th April, 2024. Cognizance of the charge sheet was taken on 18th April, 2024 but the order does not reflect that summons was issued upon the petitioners upon taking cognizance thereof. Warrant of arrest was issued against the petitioners on 6th June, 2024 due to their absence before the learned Magistrate despite the fact that submission of charge sheet and cognizance taken thereof were not intimated to the petitioners by the learned Court.

The order dated 8th July, 2024 directing issuance of warrant of proclamation and attachment does not assign any reason why both warrant of proclamation and attachment were issued simultaneously, in terms of Section 82/83 of the Code.

In absence of any execution return received by the learned Magistrate, the case was filed for the present against the petitioners.

Upon consideration of the material on record, this Court is of the view that warrant of arrest as well as warrant of proclamation and attachment issued against the petitioners were not in consonance with the law laid down under the Code.

Since the petitioners undertake to surrender before the learned Magistrate within seven days from date, the learned Magistrate shall allow them to remain on the same bond in the event they surrender within the stipulated time frame. The order impugned dated 6th June, 2024 and the consequential orders dated 8th July, 2024 and 12th August, 2024 are set aside/quashed.

However, if the petitioners fail to surrender before the learned Magistrate within the time frame fixed by this Court, the learned Magistrate shall be at liberty to take necessary steps against them in accordance with law without further reference to this Court.

In view of the above, the revisional application being CRR 3574 of 2024 is disposed of.

As a consequence the application being CRAN 1 of 2024 is disposed of.

On prayer of the petitioners liberty is granted to communicate the gist of this order to the learned Trial Court at once.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)