

**CRR 4861 of 2023
with
CRAN 1 of 2024**

**Layek Ali alias Laltu
Vs.
The State of West Bengal**

Mr. Sabyasachi Banerjee
Mr. Abhimanyu Banerjee
Mr. Arnab Saha
Mr. Anirban Basak

... for the petitioner

Mr. Ranadeb Sengupta
Ms. Afreen Begum

... for the State

1. The present revisional application has been preferred against order dated 25.09.2023 passed by the learned Additional District and Sessions Judge, 4th Court cum Special Court under NDPS Act, Malda in NDPS Case No. 122 of 2022 arising out of Kaliachak P.S. Case No. 875 of 2022 dated 12.08.2022 registered under Sections 21(c)/27A/29 of the NDPS Act.
2. On hearing the learned counsel for the petitioner and the learned counsel for the State and on perusal of the materials on record **the following is evident:-**
 - i) Vide order dated **25.07.2023** the learned Judge, Special Court issued WPA, but the said proclamation was signed and issued by the Court on **25th August, 2023** fixing the next date as **25th September, 2023**.

3. Section 82 Cr.P.C. reads as follows :-

“82. Proclamation for person absconding.-

(1) 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 thirty days from the date of publishing such proclamation.

(2) The proclamation shall be published as follows :-

(i)(a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;

(b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village;

(c) a copy thereof shall be affixed to some conspicuous part of the court-house;

(ii) the Court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper circulating in the place in which such person ordinarily resides.

(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day, in the manner specified in clause (i) of sub-section (2), shall be conclusive evidence that the requirements of this Section have been complied with, and that the proclamation was published on such day.

(4) [Where a proclamation published under sub-section (1) is in respect of a person accused of an offence punishable under Sections 302, 304, 364, 367, 382, 392, 393, 394, 395, 396, 397, 398, 399, 400, 402, 436, 449, 459, or 460 of the Indian Penal Code (45 of 1860), and such person fails to appear at the specified place and time required by the proclamation, the Court may, after making such inquiry as it thinks fit, pronounce him a proclaimed offender and make a declaration to that effect.

(5) The provisions of sub-sections (2) and (3) shall apply to a declaration made by the Court under sub-section (4) as they apply to the proclamation published under sub-section (1).]”

4. From the order challenged in the present revision which is dated 25.09.2023, the relevant extract is reproduced herein :-

*“.....Received execution reports of Proclamation from Gazole PS against accused Md. Ziaul Hoque and another Proclamation reports are also received from Kaliachak PS, Malda against the warrantee accused persons namely **Layek Ali @ Laltu** and accused Saniul Sk @ Saimul Sk @ Saminur Sk. **It transpires from the report that proclamation process has been completed and noted in GDE vide Gazole PS GDE No. 1403 dated 22.09.2023 and Kaliachak PS G.D. Entry No. 1354 dated 23.09.2023.....”***

5. It is thus clear from the said order that the process of proclamation which requires 30 days from the order of publication was completed prior to the said period.
6. Accordingly, the order is clearly not in accordance with the provisions of Section 82 of Cr.P.C. and is thus set aside.
7. **CRR 4861 of 2023 is allowed.**
8. Learned Additional District and Sessions Judge, 4th Court cum Special Court under NDPS Act, Malda to proceed in the case in accordance with law including considering the necessity of issuance of fresh WPA, if deemed necessary.

9. All connected applications, if any, stand disposed of.
10. Interim order, if any, stands vacated.
11. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties expeditiously after due compliance.

(Shampa Dutt (Paul), J.)