

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
Criminal Revisional Jurisdiction

Present: - Hon'ble Mr. Justice Subhendu Samanta.

CRR 39 of 2024

IN THE MATTER OF

Peng Yongxin@ Umesh Yonjan
Vs.
State of West Bengal.

For the Petitioner : Mr. Ayan Bhattacharya Adv.,
Mr. Pawan Kr. Gupta Adv.,
Mr. Arijit Ghosh Adv.

For the State : Mr. Aniruddha Biswas, Adv.

Reserved On : 09.05.2024

Judgment on : 04.07.2024

Subhendu Samanta, J.

1. The instant criminal revision has been preferred against order dated 16.09.2023 and 20.09.2023 passed by Learned ACJM Siliguri in Kharibari PS Case No. 181 of 2023 dated 19.07.2023 u/s 468/471 of IPC read with Section 14A/14B of Foreigners Act 1946.

2. The brief fact of the case is that the present petitioner has been arraigned as accused in the above mentioned police case on the allegation that the petitioner being Chinese citizen was trying to enter into on 09.07.2023 with a fake Nepali passport and citizenship card on Nepal and brought out

himself as Nepali citizen. The written complaint was lodged by BIT Commander of ICP Panitaki 'F' Coy, 40st battalion SSB Ranidanga to the OC of Kharibari PS on 19.07.2023. On the basis of said complaint Kharibari PS Case No. 181 of 2023 dated 19.07.2023 u/s 468/471 of IPC read with 14A/14B of Foreigners Act was started. On the same day the petitioner was arrested and taken into custody. Since then the petitioner is in custody in connection with the case.

3. It is the case of the petitioner that the investigating agency submitted a charge sheet on 15.09.2023 against the present petitioner on the above mentioned offences and prayed for filing supplementary charge sheet. The charge sheet was in complete. Thus the present petitioner applied for statutory rights of default bail u/s 167(2) of Cr.P.C. It is the case of the present petitioner according to the nationality law of the Peoples Republic of China the present petitioner loose his Chinese nationality and acquired citizenship of Nepal. During the custody the present petitioner time and again submitted before the Learned Magistrate regarding the verification of genuinity of Nepali passport. The Learned Magistrate has also directed the concerned investigating agency to expedite the process of verification. However, the Learned Magistrate has rejected the prayer of default bail by passing the impugned order on 20.09.2023. It is the further case of the present petitioner that the Learned Magistrate was illegally has passed

the order of taking cognizance on the basis of the incomplete charge sheet. The learned Advocate for the petitioner submits that the order passed by the Learned Magistrate is illegal and bad in the eye of law. The verification of Nepali passport of the present petitioner was kept pending so the allegation against the present petitioner u/s 14A/14B of Foreigners Act may not be appeared to be justified. At this juncture the Learned Magistrate should not deny the statutory bail of the present petitioner. In support of his contention he cited several decisions of Hon'ble Apex Court.

**i) Anand Subramanian Vs. Central Bureau of Investigation
2023 CRI.L.J. 450**

**ii) Sharif Ahmed And Anr. Vs. State of Uttar Pradesh And
Anr. 2024 INSC 363**

**iii) Harishchandra Prasad Mani and Ors. Vs. State of
Jharkhand and Anr. (2007) 15 SCC 494**

**iv) Rajendra Rajoriya Vs. Jagat Narain Thapak (2018) 17
SCC 234**

**v) Umesh Kumar Vs. State of Andhra Pradesh & Anr. (2013)
10 SCC**

**vi) Judgebir Singh and Ors Vs. National Investigation
Agency 2023 SCC Online SC 543**

**vii) Directorate of Enforcement Vs. Manpreet Singh Talwar
2023 SCC Online SC 751**

4. Learned Advocate for the petitioner submits that the so called investigation and the report submitted by the police cannot be termed as charge sheet. Thus, the cognizance taken by the Learned Magistrate on the basis of the charge sheet is illegal in the eye of law. It is only the purpose of the investigating agency to deny the default bail to the petitioner. The so called charge sheet does not contained the verification report regarding the genuinity of the Nepali passport of the present petitioner. If the said issue is yet to be decided then they applicability of Section 14A or Section 14B of Foreigners Act may not be appeared to be justified against the present petitioner. He further argued that Section 173 Cr.P.C. directed the police to submit a report after completion of investigation along with the necessary materials collected by the investigating agency during the course of investigation, in this case the C.S contain no report of verification of Nepali Passport.

5. Learned Counsel for the petitioner further argued that so called charge sheet suffering from intrinsic hollowness, it cannot be termed as police report u/s 173 Cr.P.C., there is no basis for taking cognizance by the Learned Magistrate on the basis of such report. He further argued that the impugned order passed by the Learned Magistrate for taking cognizance on the basis of the incomplete charge sheet as well as order

denying the default bail under the provisions of 167(2) Cr.P.C. is illegal in the eye of law.

6. Learned Advocate appearing on behalf of the state submits that the investigation disclosed that the Nepali passport suspected to be forged. The petitioner earlier apprehended by Delhi Police wherein he was cited as a Chinese Citizens. Now in the present case he placed the fake Nepali passport and claimed to be a Nepali Citizen. He submits that there are sufficient materials to hold that the alleged passport is a forged one, the name of father in the Nepal Passport is different.

7. Learned Advocate for the state further argued that according to the provisions of 8/9 of Foreigners Act the onus is lies upon the accused to prove that he is a citizen of a particular country. Learned Advocate for the State submits that the charge sheet submitted by the police cannot be said to be a document submitted by the police only to deny the default bail of the present petitioner. In support of his contention Learned Advocate for the state cited a decision in **CBI Vs. Kapil Wadhawan and Anr. (2024) SCC Online SC 66.**

8. Heard the Learned Advocates perused the complaint, impugned order taking cognizance, as well as, the order denying default bail. It appears that the present petitioner was arrested in connection with this case on 9th July, 2023. The charge sheet was submitted on 15th September 2023 against

the present accused petitioner u/s 468/471 IPC and read with Section 14A/14B of the Foreigners Act. The charge sheet contained a prayer for submission of supplementary charge sheet after receiving report from Director of Finger Print Bureau Delhi. It further appears that the supplementary charge sheet was submitted on 2nd of December 2023 containing the report of the FPB, Delhi. It is the case of the present petitioner that only to deny default bail the charge sheet was submitted. It is the further case of the present petitioner that the charge sheet does not contain any verification report from the concerned authority regarding genuinity of Nepali Passport of the present petitioner. Thus it is the positive case of the present petitioner that the so called charge sheet filed by the police on 15th September 2023 cannot be said to be a charge sheet or police report.

9. In a case of **Anand Subramanian (supra)** – the accused of that case was not named in the FIR and was arrested about 04 years after registration of FIR and investigation was underway. During the court of investigation default bail prayer of the accused was denied on the ground that investigation was yet to be concluded. The Hon'ble Apex Court in that case has held that

31. The legal position pertaining to scope of section 167(2) of the Code emanating from been above referred decisions can be summarised as under:-
i) The object of the section 167(2) of the Code is to ensure an expeditious

investigation to be and a fair trial and is another limb of Article 21.

ii) The accused has indefeasible right in his favour for being released on bail on account of default by the investigating agency to complete investigation within the prescribed period.

iii) It is duty of the courts to ensure that benefit of Section 167(2) of the Code be given to the accused and detention beyond statutory period would be illegal being opposed to the liberty of the accused.

iv) Section 173 of the Code does not stipulate a piece-meal investigation and filing of incomplete charge sheet before Court and contemplates filing of a final report after completion of the entire investigation of the case in respect of all offences and where several offences are involved in a case. The practice of filing preliminary charge sheets to seek extension of remand beyond the statutory period should be deprecated.

v) The charge report can be filed before the court only after the investigation is over and formation of an opinion regarding all the offences alleged against the accused.

vi) There is a distinction between completion of investigation and further investigation. The further investigation can be resorted to only after the completion of investigation and filing of charge sheet.

vii) The investigating agency cannot circumvent section 167(2) of the Code by filing incomplete charge sheets. The police report or charge sheet cannot be sent within the meaning of section 173 (2) till the investigation is completed and any report sent before the investigation is completed will not be a police report within the meaning of section 173 (2) of the Code.

viii) The incomplete charge sheet filed without completing the investigation cannot be used to defeat the right of statutory bail under Section 167(2) of the Code.

ix) The right of the accused to statutory bail came to an end once the charge sheet is filed within the stipulated period. The filing of charge sheet is sufficient compliance with the provisions of section 167(2) of the Code and taking of cognizance is not material to Section 167.

x) There can only be one charge sheet but there is no restriction on filing of number of supplementary charge sheets.

xi) The charge sheet can be said to be complete when it enable the court to take or not to take cognizance of the offence after application of mind and if certain facets called for further investigation does not render such re- port anything other than a final report.

xii) The power of Magistrate to take cognizance is not lost even if the police report is termed as incomplete by the investigating officer.

xiii) If the charge sheet is not filed then right for default bail has ripened into status of indefeasibility which cannot be frustrated by the prosecution and the courts on any pretext.

xiii) Economic offences having deep rooted conspiracies and involving huge loss of public funds, constitute a class apart and need to be viewed seriously.

10. In **Sarif Ahmed (supra)** The Hon'ble Apex Court has clarified the ingredients of charge sheet/final report filed by the police u/s 173 of the Code of Criminal Procedure as follows:-

28. The final report has to be prepared with these aspects in mind and should show with sufficient particularity and clarity, the contravention of the law which is alleged. When the report complies with the said requirements, the court concerned should apply its mind whether or not to take cognisance and also proceed by issuing summons to the accused. While doing so, the court will take into account the statement of witnesses recorded under Section 161 of the Code and the documents placed on record by the investigating officer.

29. In case of any doubts or ambiguity arising in ascertaining the facts and evidence, the Magistrate can, before taking cognisance, call upon the investigating officer to clarify and give better particulars, order further investigation, or even record statements in terms of Section 202 of the Code.

30. Our attention has been drawn to the format prescribed for the State of Uttar Pradesh, which by column 16 requires the investigating officer to state brief facts of the case. In addition, the State of Uttar Pradesh has issued a circular dated 19.09.2023, which refers to an earlier circular bearing No. 59 of 2016 dated 20.10.2016, and states that the investigation provisions contained in the Code and the police regulations with reference to Section 173 of the Code are not being consistently complied with and followed by the investigating officers and the supervising officers. The need to provide lead details of the offence in the chargesheet is mandatory as it is in accord with paragraph 122 of the police regulations. Similar directions were issued on 09.09.2022 following the direction of the High Court of Judicature at Allahabad that brief narration of the material collected during investigation, which forms the opinion of the investigating officer, should be mentioned in the chargesheet.

31. Therefore, the investigating officer must make clear and complete entries of all columns in the chargesheet so that the court can clearly understand which crime has been committed by which accused and what is the material evidence available on the file. Statements under Section 161 of the Code and related documents have to be enclosed with the list of witnesses. The role played by the accused in the crime should be separately and clearly mentioned in the chargesheet, for each of the accused persons.

11. Learned Advocate for the petitioner further argued that this court can not proceed to evaluate the charge sheet filed by the police. It is evident that the police report does not contained any report of verification of the Nepali Passport. In **Umesh Kumar (Supra)** the Hon'ble Supreme Court laid down the scope of Section 482 of Cr.P.C. regarding the inherent power of the High Court as follows:-

20. The scope of Section 482 CrPC is well defined and inherent powers could be exercised by the High Court to give effect to an order under CrPC; to prevent abuse of the process of court; and to otherwise secure the ends of justice. This extraordinary power is to be exercised ex debito justitiae. However, in exercise of such powers, it is not permissible for the High Court to appreciate the evidence as it can only evaluate material documents on record to the extent of its prima facie satisfaction about the existence of sufficient ground for proceedings against the accused and the Court cannot look into materials, the acceptability of which is essentially a matter for trial. Any document filed along with the petition labelled as evidence without being tested and proved, cannot be examined. The law does not prohibit entertaining the petition under Section 482 CrPC for quashing the charge- sheet even before

the charges are framed or before the application of discharge is filed or even during the pendency of such application before the court concerned. The High Court cannot reject the application merely on the ground that the accused can argue legal and factual issues at the time of the framing of the charge. However, the inherent power of the Court should not be exercised to stifle the legitimate prosecution but can be exercised to save the accused from undergoing the agony of a criminal trial. (Vide Pepsi Foods Ltd. v. Judicial Magistrate, Ashok Chaturvedi v. Shitul H. Chanchani 12, G. Sagar Suri v. State of U.P. 13 and Padal Venkata Rama Reddy v. Kovvuri Satyanarayana Reddy 14.)

12. In **Judgebir Singh Alias Jasbir Singh (Supra)** issue of entitlement of accused to seek default bail the ground of insufficient charge sheet was decided as follows:-

60. Our attention was drawn by the learned counsel appearing for the accused to a very recent pronouncement of this Court, in the case of Ritu Chhabaria v. Union of India, Writ Petition (Crl.) No. 60 of 2023 decided on 26.04.2023. This decision has been relied upon to fortify the submission that right of an accused to seek default bail cannot be defeated by filing incomplete chargesheet. Ritu Chhabaria filed a writ petition under Article 32 of the Constitution, seeking release of her husband on default bail. In the facts of the said case, three issues fell for the consideration of this Court:

i. Can a chargesheet or a prosecution complaint be filed in piecemeal without first completing the investigation of the case?

ii. Whether the filing of such a chargesheet without completing the investigation will extinguish the right of an accused for grant of default bail?

iii. Whether the remand of an accused can be continued by the trial court during the pendency of investigation beyond the stipulated time as prescribed by the CrPC? 61. This Court,

while allowing the petition observed in paras 24 and 25 respectively, as under:

"24. This right of statutory bail, however, is extinguished, if the charge sheet is filed within the stipulated period. The question of resorting to a supplementary chargesheet u/s 173(8) of the Cr. P.C. only arises after the main chargesheet has been filed, and as such, a supplementary chargesheet, wherein it is explicitly stated that the investigation is still pending, cannot under any circumstance, be used to scuttle the right of default bail, for then, the entire purpose of default bail is defeated, and the filing of a chargesheet or a supplementary chargesheet becomes a mere formality, and a tool, to ensue that the right of default bail is scuttled.

25. It is thus axiomatic that first investigation is to be completed, and only then can a chargesheet or a complaint be filed within the stipulated period, and failure to do so would trigger the statutory right of default bail under Section 167(2) of Cr. P.C. In the case of *Union of India v. Thamisharasi* [(1995) 4 SCC 190], which was a case under the Narcotic Drugs and Psychotropic Substances Act, 1985, on finding that the investigation was not complete and a chargesheet was not filed within the prescribed period, denial of default bail was held to be in violation of Article 21 of the Constitution of India, and it was further held that even the twin limitation on grant of bail would not apply."

62. Thus, in *Ritu Chhabaria* (supra), the facts were altogether different. In the said case, indisputably, the investigation was in progress, but as the statutory time period to file the chargesheet was coming to an end, the chargesheet was filed clarifying that the investigation was still pending. In such circumstances, this Court took the view that there is no question of filing any supplementary chargesheet, taking the aid of sub section (8) of Section 173 of the CrPC, as sub section (8) of Section 173 of the CrPC comes into play only after the investigation is completed and the chargesheet is laid. We are of the view that the aforesaid decision of this Court is of no avail to

the accused in the present case. In the case on hand, the chargesheet was filed after the entire investigation was completed. This fact is not in dispute.

63. Thus, we answer Issue No. 1 holding that filing of a chargesheet is sufficient compliance with the provisions of Section 167 of the CrPC and that an accused cannot claim any indefeasible right of being released on statutory/default bail under Section 167(2) of the CrPC on the ground that cognizance has not been taken before the expiry of the statutory time period to file the chargesheet. We once again, reiterate what this Court said in *Suresh Kumar Bhikamchand Jain* (supra) that grant of sanction is nowhere contemplated under Section 167 of the CrPC.

13. In **Kapil Wadhawan** the Hon'ble Apex Court has held the entire scope of default bail and is of view that--

It is a well-settled principle of interpretation of statute that it is to be read in its entirety. Construction of a statute should be made in a manner so as to give effect to all the provisions thereof. Remand of an accused is contemplated by Parliament at two stages; pre- cognizance and post-cognizance. Even in the same case, depending upon the nature of charge-sheet filed by the investigating officer in terms of Section 173 of the Code, a cognizance may be taken as against the person against whom an offence is said to have been made out and against whom no such offence has been made out even when investigation is pending. So long a charge-sheet is not filed within the meaning of sub-section (2) of Section 173 of the Code, investigation remains Dendina. It, however, does not preclude an investigating officer, as noticed hereinbefore, to carry on further investigation despite filing of a police report, in terms of sub-section (8) of Section 173 of the Code.

39. The statutory scheme does not lead to a conclusion in regard to an investigation leading to filing of final form under sub-section (2) of Section 173 and further investigation contemplated under sub -section (8) thereof.

Whereas only when a charge-sheet is not filed and investigation is kept pending, benefit of proviso appended to sub-section (2) of Section 167 of the Code would be available to an offender; once, however, a charge-sheet is filed, the said right ceases. Such a right does not revive only because a further investigation remains pending within the meaning of subsection (8) of Section 173 of the Code."

25. In view of the afore-stated legal position, we have no hesitation in holding that the chargesheet having been filed against the respondents-accused within the prescribed time limit and the cognizance having been taken by the Special Court of the offences allegedly committed by them, the respondents could not have claimed the statutory right of default bail under Section 167(2) on the ground that the investigation qua other accused was pending. Both, the Special Court as well as the High Court having committed serious error of law in disregarding the legal position enunciated and settled by this Court, the impugned orders deserve to be set aside and are accordingly set aside.

14. For the better appreciation of submission made by the Learned Counsel for the purpose the relevant part of Section 167 and Section 173 of the Cr.P.C. are reproduced as under-

"167. Procedure when investigation cannot be completed in twenty-four hours. -

1.....

2. The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time, authorise the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole; and if he has no jurisdiction to try the case or commit it for trial, and considers further detention

unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction: Provided that-

[(a) the Magistrate may authorise the detention of the accused person, otherwise than in custody of the police, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this paragraph for a total period exceeding-

(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life imprisonment for a term of not less than ten years; or

(ii) sixty days, where the investigation relates to any other offence, and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Chapter XXXIII for the purposes of that Chapter;]

(b)

(c)...

173. Report of police officer on completion of investigation.

(1) Every investigation under this Chapter shall be completed without unnecessary delay.

[(1A) The investigation in relation to 3 [an offence under sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or 376E] from the date on which the information was recorded by the officer in charge of the police station.]

(2) (i) As soon as it is completed, the officer in charge of the police station shall forward to a Magistrate empowered to take cognizance of the offence on a police report, a report in the

form prescribed by the State Government, stating-

- (a) the names of the parties;
- (b) the nature of the information;
- (c) the names of the persons who appear to be acquainted with the circumstances of the case;
- (d) whether any offence appears to have been committed and, if so, by whom;
- (e) whether the accused has been arrested;
- (f) whether he has been released on his bond and, if so, whether with or without sureties;
- (g) whether he has been forwarded in custody under section 170.
- [(h) whether the report of medical examination of the woman has been attached where investigation relates to an offence under 2 [sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB] or section 376E of the Penal Code, 1860].]
- (ii) The officer shall also communicate, in such manner as may be prescribed by the State Government, the action taken by him, to the person, if any, by whom the information relating to the commission of the offence was first given.

(3)...

(4)...

15. In the case of **Judgebir Singh (supra)**, Hon'ble Supreme Court has considered its earlier view in **Ritu Chhabaria Vs. Union of India and Union of India Vs. The Thamisharasi** and is of opinion that they are distinguishable

on facts. In the present case the charge sheet was challenged to be incomplete.

16. In passing the impugned order on 20th September 2023 the judgment of Hon'ble Apex Court of **Ritu Chhabaria** was placed; on the observation of the fact that the Central Government has preferred a review petition against the judgment of **Ritu Chhabaria**, the Learned Magistrate do not consider the prayer of bail of the present petitioner.

17. On perusing the charge sheet/ final report along with the CD, it appears that during the course of investigation the police have collected several documents and materials; on the basis of which the charge sheet has been submitted against the present petitioner stating the present petitioner to be a Chinese citizen who tried to enter into the territory of India with a fake Nepali passport. The Chinese identity card of the petitioners was verified by the investigating agency.

18. Supplementary charge sheet contained the report the Director, Finger Print Bureau, Delhi Police. After completion of investigation the police have submitted charge sheet u/s 168/471 read with Section 14A/14B of Foreigners Act. It is the submission of the present petitioner that the Nepali passport seized by the investigating agency is yet to be verified. Thus, the charge sheet cannot be termed as a complete charge sheet.

19. The legal propositions as enumerated by the Hon'ble Apex Court is well accepted to the principle that the right of default bail u/s 167(2) Cr.P.C. is not only a statutory right but as a fundamental right that flows under Article 21 of the Constitution of India. It is an indefeasible right, none- the- less, it is enforceable only prior to the filing of the charge sheet, and does not survive or remained enforceable after submission of the charge sheet. Thus, once the charge sheet has been submitted the question of default bail cannot arise but the accused may ask for regular bail on the basis of merits of each case. In this case it is only to look into that whether the charge sheet submitted by the police can be termed as charge sheet or it is mere act of the investigating agency only filed to deny the default bail of the accused.

20. Section 173 Cr.P.C. postulates the ingredients of final report of the police; on perusing the entire charge sheet it appears that the investigating agency has specifically followed the requirements of Section 173 Cr.P.C in filing the charge sheet. Mere filing supplementary charge sheet on the basis of the report of FPB, Delhi, does not make the final report of the police finally submitted on 15.09.2023 to be a document with intrinsic hollowness.

21. The merit and evidentiary value of the materials in the CD cannot be ascertained at this stage. The verification

report regarding the genuineness of Nepali Passport of the present petitioner may be a good ground on behalf of the present petitioner in trial but at this juncture the same fact cannot be enquired into on the view of Section 8 and Section 9 of the Foreigners Act, 1946, wherein burden of proof is upon the accused against whom the charge has been levelled as a Foreigner

Sec- 9. Burden of proof. If in any case not falling under section 8 any question arises with reference to this Act or any order made or direction given thereunder, whether any person is or is not a foreigner or is or is not a foreigner of a particular class or description the onus of proving that such person is not a foreigner or is not a foreigner of such particular class or description, as the case may be, shall notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), lie upon such person.

22. The instant Criminal Revision has been filed by the petitioner against the impugned order dated 16.09.2023 passed by the Learned Chief Judicial Magistrate Siliguri, wherein the Learned Magistrate had taken cognizance of the offence on the basis of the charge sheet submitted by the police and refused to grant default bail. I find no illegality or irregularity in the impugned order passed by the Learned Magistrate. The Learned Magistrate has correctly taken cognizance of the offence on the strength of the charge sheet, and as the charge sheet has been submitted has correctly refused the prayer for default bail.

The proposition of law as referred by the Learned Advocate for the petitioner in **Ritu Chhabaria and Thamisharasi** are not applicable in this case due to factual difference rather Hon'ble Supreme Court in **Judgebir Singh** has decided the issue which is squarely applicable in this case.

23. It further appears the petitioner has preferred an application for discharge u/s 227 of Cr.P.C. before the appropriate court which is pending. The merit of the charge against the petitioner would be decided by the concerned Court according the law, without being influenced by the order of this Court.

24. So far as the impugned orders are concerned. I find no justification to entertain the present petitioner on the above score.

25. The instant Criminal revision appears to me meritless of the same is hereby rejected.

26. CRR is thus disposed of on above observations.

However this order shall not preclude Learned Magistrate concerned to consider regular prayer of bail of the present petitioner according to law on the basis of the materials in the case itself, without being influenced by the order of this court.

27. Connected pending applications if pending are all disposed of. In an interim order passed by this Court during the pendency of the instant criminal revision is also vacated.

28. Parties to act upon the server copy and urgent certified copy of the judgment be received from the concerned Dept. on usual terms and conditions.

(Subhendu Samanta, J.)