

May 02, 2024
AP (74)

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Criminal Revisional Jurisdiction**

**CRR 133 of 2024
Alok Kumar Roy
v/s.
The State of West Bengal & Ors.**

Adv. Sarthak Choudhury,
Adv. Subhasish Ghosh,

...for the petitioner.

Adv. Nilay Chakraborty, Ld. APP,
Adv. Sourav Ganguly,

... for the State.

Heard learned counsels for the parties.

The petitioner has assailed the order passed by the learned Chief Judicial Magistrate, Jalpaiguri on 18th March, 2024 whereby the learned Court has issued warrant of proclamation and attachment against the petitioner.

It appears from the order impugned that the order records “No E/R of W/A is received from I/C Women P.S. in respect of accused 1. Tanoshree 2. Alok Roy @ Alok Kumar Roy. Issue W/P/A against the accused persons for the interest of the case”

Section 82 of the Code of Criminal Procedure which deals with issuance of warrant of proclamation and attachment demonstrate that when the Court has reasons to believe 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.

In the case in hand, the order impugned does not record the satisfaction of the Court to the effect that warrant of arrest could not be executed due to abscondence of the accused-petitioner. In fact, the order lacks application of judicial mind and has been passed in a mechanical manner. It is also strange to note that warrant of attachment under Section 83 of the Code has been issued by the same order fixing 1st April, 2024 for execution return which is less than the period of thirty days granted under Section 82. Issuance of warrant under Section 82 and 83 by the same order is not enjoined in law.

In view of the above, this Court is inclined to hold that the order impugned dated 18th March, 2024 is required to be set aside/quashed.

CRR 133 of 2024 is allowed.

The order passed by the learned Chief Judicial Magistrate, Jalpaiguri on 18th March, 2024 in G.R. Case no. 1883 of 2023 is set aside/quashed.

Urgent certified website copy of this order, if applied for be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh, J.)