

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Criminal Revisional Jurisdiction
Appellate Side**

CRR No. 204 of 2023

**Aoy Roy
Versus
The state of West Bengal and Ors.**

Mr. Arnab Saha, Adv.

... for the petitioner

Mr. Nilay Chakraborty, Adv.

Mr. Sourav Ganguly, Adv.

... for the State

Mr. Arnab Saha, learned counsel, is appearing for the petitioner through virtual mode. Mr. Nilay Chakraborty, learned counsel, is appearing for the State.

The petitioner has filed the present application under Section 397/401 read with Section 482 of the Code of Criminal Procedure, 1973 read with Article 227 of the Constitution of India challenging the order dated 22nd July, 2023 passed by the learned Additional Chief Judicial Magistrate at Dinhata 2nd Court, Cooch Behar in G.R.(I) Case No.74/2023 arising out of Sahebganj Police Station Case No. 62/2023 dated 26th February, 2023 under Sections 143/147/325/326/307/ 332/333/427/353/506 of the Indian Penal Code of the Indian Penal Code read

with Section 25(1-A)/27 of the Arms Act, 1959 read with Sections 3/4 the Prevention of Damage to Public Property Act, 1984.

Counsel for the petitioner submits that by an order dated 23rd March, 2023 passed in WPA 616 of 2023, the co-ordinate Bench of this Court has restrained the investigating officer for taking any coercive measure against the petitioners on their undertaking to participate in the investigation and not to leave the jurisdiction of Sahebganj Police Station.

Counsel for the petitioner submits that during the existence of the order, the petitioner was arrested by the police of Dinhata in Dinhata P.S. Case No. 363/2023 dated 10th July, 2023 and on 22nd July, 2023 the investigation officer has filed an application in GR (I) Case No. 74/2023 prayed for treating the petitioner as arrest in connection with Sahebganj P.S. Case No. 62/2023.

Counsel for the petitioner submits that the investigating officer had the knowledge that the co-ordinate Bench has passed an order directing the investigating officer not to take any coercive action but in spite of the same, the investigating officer has filed an application before the learned Magistrate in GR (I) Case No. 74/2023 for treating the petitioner as arrest in

connection with Sahebganj P.S. Case No. 62/2023 by violating the order passed by this Court.

This Court has directed the investigating officer as well as officer in charge to appear before this Court and accordingly, the investigating officer and the Officer in Charge of Sahebganj Police Station had appeared and filed a report wherein it is stated that the order passed by the co-ordinate Bench of this Court dated 23rd March, 2023 was operative till 31st March, 2023 and subsequently, the order of extension was not communicated to the investigating officer and the investigating officer was not aware with regard to the extension of the order dated 23.03.2023. Accordingly, the investigating officer has made an application before the learned Magistrate for treating the petitioner as arrest in connection with Sahebganj P.S. Case No. 62/2023.

Considered the submission of the learned counsel for the respective parties.

Perused the materials on record and the report submitted by the investigating officer.

This Court finds that the order passed by the co-ordinate Bench of this Court dated 23.03.2023 was up till 31st March, 2023 but subsequently, the order was extended but the said order was not communicated and the investigating officer had no knowledge about the

extension of the order granted by this Court and the investigating officer in accordance with law has made an application before the learned Magistrate for showing the petitioner as arrest. Thus, this Court finds that there is no illegality in the order of the learned Additional Chief Judicial Magistrate at Dinhata 2nd Court, Cooch Behar.

Accordingly, CRR No. 204 of 2023 is dismissed.

(Krishna Rao, J.)