

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

**PRESENT:
THE HON'BLE JUSTICE UDAY KUMAR**

CRR 1299 of 2024

WITH

CRAN 4 of 2025

Smt. Ananya Nandi Mukherjee @ Ananya Mukherjee

-VS-

The State of West Bengal & Ors.

For the Petitioners : Mr. Mukunda Lal Sarkar, Ld. Sr. Adv.,
Mr. Sibendu De
Mr. Manoj Kr. Haldar

For the Opposite Party No.2 : Mr. Amajit De

For the State : Mr. Arindam Sen,
Ms. Suveni Banerjee

Hearing concluded on : 18th July 2025

Judgment on : 29th August 2025

UDAY KUMAR, J.: –

- 1) This revisional application, filed under Sections 482, 401, read with Section 397 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "the Cr.P.C."), has been preferred by the petitioner and de-facto complainant, Smt. Ananya Nandi Mukherjee, seeking to rectify a grave injustice and a demonstrable abuse of the judicial process, by setting aside two patently erroneous orders passed on

March 11, 2024, and March 13, 2024, in connection with G.R. Case No. 552 of 2023 by the Learned Judicial Magistrate, 4th Court, Durgapur. The petitioner asserted, with compelling force, that these orders had gravely prejudiced her case by impeding her ability to present crucial evidence and a vital witness, thereby warranting the invocation of this Court's inherent and revisional jurisdiction.

- 2) The foundational facts, as they emerge from the record, reveal deeply acrimonious marital relationship. The petitioner had lodged a complaint against her estranged husband, Sri Subhajit Mukherjee, leading to the initiation of Durgapur Women P.S. Case No. 17/23 under Sections 448, 323, and 506 of the Indian Penal Code. It is also pertinent to note an earlier instance of discord, which had resulted in Kanksa P.S. Case No. 360/21, lodged by the petitioner under Section 498A IPC, alleging a history of physical and mental cruelty.
- 3) Subsequently, the respondent-husband had visited the petitioner's residence and, in a shocking act, assaulted her, despite they were residing separately since long. This incident, demonstrably captured on CCTV footage. Petitioner was intended to adduced the incident in evidence through a pen drive containing said CCTV footage. However, when the petitioner's counsel moved an application for its admission, the Learned Magistrate, instead of rendering a judicial determination on its admissibility, merely directed that the application be "kept with the record." This action, or rather, inaction, had left a critical piece of evidence in a state of indefinite ambiguity.

- 4) The second impugned order, passed on March 13, 2024, was equally disconcerting. The Learned Magistrate, with an unseemly haste, had expunged the name of the petitioner's mother, Smt. Lipika Nandi, from the witness list. This decision was predicated solely upon an unverified police report and a certificate from a local authority, an Up-Pradhan, which unreliably stated that the witness was not residing at the specified address. This order had been passed notwithstanding the fact that the petitioner's counsel had expressly offered to produce original identity proof documents to incontrovertibly establish the witness's residence. The petitioner had consequently levelled serious allegations of bias and prejudice against the Learned Judicial Magistrate, which rightly prompted this Court to call for a report, now duly on record.
- 5) Mr. Mukundala Sarkar, Learned Senior Counsel for the petitioner, had argued with considerable erudition that the impugned orders were legally and jurisprudentially unsustainable. He vehemently submitted that these orders are not an interlocutory rather they are "intermediate" in nature, which, as per the established jurisprudence of the Hon'ble Supreme Court (*Amar Nath & Ors. v. State of Haryana*, *Madhu Limaye v. State of Maharashtra*, and *V.C. Shukla v. State*), are rightly amenable to revisional scrutiny. Mr. Sarkar rightly pointed out that denying a party the ability to adduce critical evidence and a vital witness strikes at the very root of the right to a fair trial and inevitably leads to a palpable miscarriage of justice.

6) Conversely, Mr. Arindam Sen, the Learned Public Prosecutor, and Mr. Amajit De, Learned Advocate for the respondent, were jointly posited that the impugned orders were interlocutory and were thus not revisable by dint of the statutory bar under Section 397(2) of the Cr.P.C. They contended, as clarified by the Magistrate's report, that the order concerning the pen drive was not a final order of rejection. As such, they argued, preferring a revision against these orders was impermissible, and the present application was not maintainable.

7) I have given careful and anxious consideration to the submissions advanced by all sides. The core question before this Court was of profound legal significance:

"Whether the impugned orders, by their inherent nature and practical effect, are amenable to revisional scrutiny."

8) This requires a judicious determination of whether they were purely interlocutory or fell within the category of intermediate orders.

9) The core legal issue before me is whether the impugned orders dated March 11, 2024, and March 13, 2024, are interlocutory in nature, and thus beyond the scope of revisional jurisdiction, or whether they fall into the category of intermediate orders. While Section 397(2) of the Cr.P.C. bars revision against purely interlocutory orders, the Hon'ble Supreme Court, in landmark judgments such as *Amar Nath & Ors. v. State of Haryana* and *Madhu Limaye v. State of Maharashtra*, has clearly delineated a class of orders that, while not final, substantially affect the rights of the parties and cause a palpable miscarriage of

justice. These are the intermediate orders, and they are rightly subject to revisional scrutiny. This jurisprudence, was subsequently reaffirmed in *V.C. Shukla v. State* [(1980) Supp SCC 92] and *Bhaskar Industries Ltd. v. Bhiwani Denim and Apparels Ltd.*, [(2001) 7 SCC 720], wherein it has been held that any order causing “grave prejudice or injustice” is subject to revisional scrutiny.

- 10) The core legal issue before me is whether the impugned orders dated March 11, 2024, and March 13, 2024, are interlocutory in nature, and thus beyond the scope of revisional jurisdiction, or whether they fell into the well-defined category of intermediate orders. While Section 397(2) of the Cr.P.C. indeed imposes a statutory bar on revision against purely interlocutory orders, the Hon'ble Supreme Court, in landmark judgments such as *Amar Nath & Ors. v. State of Haryana*, *Madhu Limaye v. State of Maharashtra*, *V.C. Shukla v. State* [(1980) Supp SCC 92], and *Bhaskar Industries Ltd. v. Bhiwani Denim and Apparels Ltd.* [(2001) 7 SCC 720], has perspicuously delineated a class of orders, while not final, but substantially affect the rights of the parties and are so foundational to the ultimate outcome that they cause a palpable miscarriage of justice if left uncorrected. Such orders are rightly subject to revisional scrutiny. The jurisprudence is now settled: any order causing "grave prejudice or injustice" is not a mere procedural step but a substantive determination that warrants judicial intervention.

- 11) The Learned Magistrate's orders in this case were not a mere procedural lapse but a fundamental failure to uphold the principles of natural justice and the inalienable right to a fair trial.
- 12) Applying this well-established principle to the facts at hand, it is overwhelmingly evident that the Learned Magistrate's order of March 11, 2024, is deeply flawed. The failure to pass a reasoned order on the admissibility of the CCTV footage, and instead simply directing the application to be "kept with the record," is not just a procedural oversight; it is a profound dereliction of judicial duty. A court's sacred role is to definitively resolve legal questions, not to leave them in a state of indefinite suspense or ambiguity. This action amounted to an arbitrary exercise of judicial power, not a reasoned application of judicial discretion. It directly prejudiced the petitioner by denying her the opportunity to present a crucial and potentially dispositive piece of evidence essential to her case.
- 13) The Equally flawed and legally unsound is the order of March 13, 2024. The summary decision to expunge a vital witness, the petitioner's own mother, from the list of witnesses based solely on an unverified police report and a certificate of a local authority, i.e., of Up-Pradhan, is a gross violation of the principles of natural justice, specifically the cardinal doctrine of *audi alteram partem*. It is a fundamental tenet of our legal system that a party must have the unfettered opportunity to prove its case. The refusal to even consider the documents relating to the identity of the witness offered by the petitioner's counsel demonstrated a clear bias or, at the very least, an

unreasoned and mechanical reliance on extraneous reports. It is the fundamental right of a party to produce its witnesses and documents for the court's satisfaction, and these should be admitted in evidence after a proper judicial scrutiny. They cannot be summarily extinguished merely on the basis of an unverified police report and a local certificate. Such reports cannot be relied upon as if they were sacrosanct. This action struck at the very root of the petitioner's ability to prove her case.

- 14) I am firmly convinced that the cumulative effect of these two orders has caused substantial and direct prejudice to the petitioner's case. She has been denied the opportunity to adduce crucial evidence and present a vital eyewitness, both of which were essential for proving her case and establishing her claim. These are not mere trivial procedural matter; but are legal defects that are incurable at the trial level. As such, they go to the very root of her right to a fair trial. Such actions are demonstrably unsound and amounted to an abuse of the process of the court.
- 15) Therefore, this Court holds that the impugned orders are legally unsustainable, and is by their nature and effect, are intermediate orders, as it is well established that any judicial order, regardless of its procedural classification, that substantially affects a party's right to present crucial evidence or a vital witness, thereby precluding them from proving their case, would falls within the ambit of an "intermediate order" and would be clearly amenable to revisional scrutiny. To hold otherwise would be to countenance a situation

where justice is sacrificed at the altar of technicality and procedural arbitrariness. Therefore, this Court holds that the impugned orders are legally unsustainable. By their very nature and effect, they are intermediate orders, as it is well established that any judicial order, regardless of its procedural classification, that substantially affects a party's right to present crucial evidence or a vital witness, thereby precluding them from proving their case, shall fall squarely within the ambit of an "intermediate order" and is clearly amenable to revisional scrutiny.

- 16) To hold otherwise would be to countenance a situation where justice is sacrificed at the altar of technicality and procedural arbitrariness.
- 17) In light of the foregoing, I am of the firm view that the impugned orders have resulted in a grave miscarriage of justice. This Court cannot countenance a situation where justice is sacrificed at the altar of technicality or procedural arbitrariness. The duty of a court is to protect the legitimate interests of the de-facto complainant as much as it is to protect the rights of the accused.
- 18) Accordingly, the present revisional application, being CRR 1299 of 2024, is allowed.
- 19) The impugned orders dated March 11, 2024, and March 13, 2024, passed by the Learned Judicial Magistrate, 4th Court, Durgapur, in G.R. Case No. 552 of 2023, are hereby quashed and set aside.
- 20) The CRR 1299 of 2024 along with CRAN 4 of 2025 stands disposed of.
- 21) The Learned Judicial Magistrate, 4th Court, Durgapur, is hereby directed to:

a. Reconsider the petitioner's application for the admission of the pen drive containing the CCTV footage. A fresh, reasoned order on its admissibility must be passed strictly in accordance with the law, particularly the Indian Evidence Act.

b. Reinstate the name of Lipika Nandi as a witness without any further delay. The Learned Magistrate shall issue a fresh summons to her, and the petitioner's counsel shall be afforded the opportunity to produce the original identity documents for the court's judicious consideration.

c. Expedite the trial and dispose of the matter as expeditiously as possible, preferably within a period of six months from the date of communication of this order.

- 22) There shall be no order as to costs.
- 23) Interim order(s), if any, shall stand vacated.
- 24) Let a copy of this order be forwarded to the Learned Chief Judicial Magistrate, Alipore, for necessary compliance.
- 25) Urgent certified photostat copy of this judgment, if applied for, be given to the parties as per law, as expeditiously as possible.

(Uday Kumar, J.)