

31.
22.12.2025
Bd.
Ct. 29

CRR 3298 of 2025
Bipul Mandal alias Daud
Vs.
The State of West Bengal & Anr.

Mr. Susnigdho Bhattacharya ... for the petitioner.

Mr. Ali Ahsan Alamgir
Ms. Soma Mal
Ms. Rabia Khatoon
Ms. June Modak ... for the opposite party no.2

Mr. Suman De
Mr. Arani Bhattacharya ... for the State.

Being aggrieved and dissatisfied with the order dated 18th September, 2012 passed in connection with G.R. Case No. 1109 of 2012 presently pending before learned Additional Chief Judicial Magistrate, Bangaon, North 24 Parganas, the instant application has been preferred by the petitioner.

Petitioner's contention is that in the year 2012 the instant FIR was lodged. However, the petitioner is neither FIR named nor any specific allegation has been attributed against him. The petitioner could not attend the court at the relevant point of time for his personal reason for which warrant of arrest was issued against him on 3rd June, 2012. Thereafter the court below issued simultaneously warrant of proclamation and attachment by the impugned order dated 18.09.2012.

Being aggrieved by the aforesaid order, learned counsel for the petitioner submits that the court below has issued warrant of proclamation and warrant of attachment

simultaneously without assigning any reason as envisaged under section 83 of the Code of Criminal Procedure.

Learned counsel for the opposite parties raised objection contending that statement of the eye witnesses recorded during investigation reveals the name of present petitioner and as such the petitioner has direct nexus with the alleged offence. Therefore, he submits that warrant of arrest, which has been issued for non-appearance before the court below shall continue. Regarding the issuance of warrant of proclamation and warrant of attachment he leaves the prayer to the discretion of the court.

Having heard learned counsel for the petitioner it appears that under the provision of section 83 of the Cr.P.C. only in the circumstances mentioned in the proviso to sub-section (1) of section 83 the court is authorized to issue the order of proclamation or attachment simultaneously. In the present case, such procedure has not been followed as apparent from the order impugned, which is also a cryptic one.

In such circumstances, the order of issuance of warrant of arrest by the court below vide order dated 03.06.2012 is not be interfered with. However, the impugned order dated 18.09.2012 by which warrant of proclamation and warrant of attachment was issued simultaneously against the present petitioner is hereby set aside for non-compliance of the provision of section 83 of the Code of Criminal Procedure. Be it mentioned in order

to secure the attendance of the petitioner before the court below he will be at liberty to issue warrant of proclamation or warrant of attachment or both following the provision laid down in section 82 and 83 of the Cr. P.C, if situation demands, without being influenced by observation made herein.

Accordingly, CRR 3298 of 2025 stands disposed of.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)