

01.
11.11.2025

Bd.
Ct. 29

CRR 3309 of 2025
with
IA No. CRAN 1 of 2025
Sk. Shahanawaz @ Chattan Kallu
Vs.
The State of West Bengal

Mr. Souvik Mitter
Ms. Rajnandini Das

... for the petitioner.

Mr. Anand Keshri
Mrs. Suparna Chatterjee

... for the State.

Affidavit of service filed by the petitioner is taken on record.

Petitioner herein has assailed the impugned order No. 8 dated 16.04.2025 by which the court below has issued WPA against the accused Sk. Shahnawaz @ Chattan Kallu. In the said order the trial court has mis-interpreted the order of this Court passed in CRR 467 of 2025 wherein this Court has set aside his earlier order by which he issued warrant of proclamation and warrant of attachment at the same time. From the provision laid down in section 85 of the BNSS read with section 83(1) of the Cr.P.C. it has been made clear that issuance of proclamation and attachment can be made simultaneously only in special circumstances where at the time of issue of the proclamation the Court is satisfied by affidavit or otherwise, that the person in relation to whom the proclamation is to be issued,- is about to dispose of the whole or any part of his property or is about to remove the whole or any part of his property from the local jurisdiction of the Court. Accordingly, section 85(1) of the BNSS has made it clear that only in special circumstances the Court may order that the proclamation order and order of attachment can be issued simultaneously and not in every cases.

In the event of non-execution of a warrant, the remedies are issue of proclamation under section 84 of BNSS and attachment and sell of Property under section 85 of BNSS but simultaneous issue of warrant and proclamation is not legal. Only in the circumstances mentioned in section 85(1), the Court is authorized to issue the order of proclamation and attachment simultaneously.

In such circumstances, the order impugned is barred under section 85(1) of the BNSS since it has not been supported by any reason or any case has been made out for simultaneous issuance of proclamation and attachment, and as such is not sustainable in the eye of law. Therefore, the order impugned dated 16.04.2025 is hereby set aside.

The court below is directed to act strictly in accordance with section 84 and 85 of the BNSS, if the petitioner/accused is still found as absconder.

Accordingly, CRR 3309 of 2025 stands disposed of. Connected application, if any, also stands disposed of.

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

(Dr. Ajoy Kumar Mukherjee, J.)