

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

Present:

**The Hon'ble Justice Md. Shabbar Rashidi**

**CRR 3573 of 2025**

**Gopal Biswas & Ors.**

**Vs.**

**The State of West Bengal & Anr.**

|                                     |   |                                                      |
|-------------------------------------|---|------------------------------------------------------|
| <b>For the petitioners</b>          | : | Mr. Kalidas Saha, Adv.<br>Ms. Khusi Mollick, Adv.    |
| <b>For the State</b>                | : | Ms. Amita Gaur, Adv.<br>Ms. Nandini Chatterjee, Adv. |
| <b>For the de-facto complainant</b> | : | Mr. Samya Ray, Adv.                                  |
| <b>Heard on</b>                     | : | 18.09.2025                                           |
| <b>Judgment on</b>                  | : | 18.09.2025                                           |

**Md. Shabbar Rashidi, J.:-**

1. In this instant revisional application, the petitioners/accused is aggrieved by the order dated 19<sup>th</sup> June 2025 passed in GR case no. 7831 of 2024. By the impugned order, the Learned Magistrate allowed

the prayer of the police for issuance of proclamation and attachment under Sections 82 and 83 of the Code of Criminal Procedure, 1973.

2. Learned advocate appearing for the petitioners/accused submits that the Learned Magistrate was not justified in issuing the proclamation and attachment as against the petitioners simultaneously. It is submitted that both the proclamation and attachment should not have been issued simultaneously.

3. The State and the de facto complainant are represented.

4. On a perusal of the materials on record it would transpire that by the order impugned, the prayer of the police for issuance of proclamation and attachment under Sections 82 and 83 of the Code of Criminal Procedure was allowed by the Learned Magistrate. Section 83 of the Code of Criminal Procedure reads as follows:-

**“S. 83      Attachment of property of person absconding**

1. *The Court issuing a proclamation under section 82 may, for reasons to be recorded in writing, at any time after the issue of the proclamation, order the attachment of any property, movable or immovable, or both, belonging to the proclaimed person;*  
*Provided that where at the time of the 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;*

*a. is about to dispose of the whole or any part of his property, or*

*b. is about to remove the whole or any part of his property from the local jurisdiction of the Court  
It may order the attachment simultaneously with the issue of the proclamation.*

*2. Such order shall authorise the attachment of any property belonging to such person within the district in which it is made; and it shall authorise the attachment of any property belonging to such person without such district when endorsed by the District Magistrate within whose district such property is situate.*

*3. If the property ordered to be attached is a debt or other movable property, the attachment under this section shall be made—*

*a. by seizure; or*

*b. by the appointment of a receiver; or*

*c. by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf; or*

*d. by all or any two of such methods, as the Court thinks fit.*

*4. If the property ordered to be attached is immovable, the attachment under this section shall, in the case of land paying revenue to the State Government, be made through the Collector of the district in which the land is situate, and in all other cases—*

- a. *by taking possession; or*
  - b. *by the appointment of a receiver; or*
  - c. *by an order in writing prohibiting the payment of rent on delivery of property to the proclaimed person or to any one on his behalf; or*
  - d. *by all or any two of such methods, as the Court thinks fit.*
5. *If the property ordered to be attached consists of live-stock or is of a perishable nature, the Court may, if it thinks it expedient, order immediate sale thereof, and in such case the proceeds of the sale shall abide the order of the Court.*
6. *The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under the Code of Civil Procedure, 1908 (5 of 1908)."*
5. In terms of the provision of Section 82 of the Code of Criminal Procedure, when a person against whom a warrant has been issued has absconded or is concealing himself so that such warrant cannot be executed, the Court may publish a written proclamation requiring him to appear at a specified place and at a specified time. Such proclamation, in the instant case, was issued by the impugned order. However, the clear space of 30 days as envisaged in Section 82 of the Code of Criminal Procedure was afforded to the petitioner and an order of attachment of his properties was issued simultaneously.

6. According to the provision of Section 83 of the Code of Criminal Procedure proclamation and attachment could be issued simultaneously in case an affidavit is filed to the satisfaction of the Court issuing such attachment that the person in relation to whom the proclamation was 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 this Court.

7. On perusal of the impugned order, it transpires that such satisfaction on affidavit or otherwise as required by the provisions of Section 83 of the Code of Criminal Procedure was not recorded in the impugned order. It was issued simply on the prayer made on behalf of the Investigating Officer of the case.

8. In such circumstances, the order dated 19<sup>th</sup> June 2025 passed in GR case no. 930 of 2024 is set aside insofar as it relates to issuance of order for attachment of the properties belonging to the petitioner for the reasons indicated hereinabove.

9. With the above observations, the instant revisional application being CRR 3573 of 2023 is disposed of.

10. All parties shall act on the basis of the server copy of this judgment duly downloaded from this Court's official website.

**(MD. SHABBAR RASHIDI, J.)**

saswata