

18.09.2025
Item No.18
Ct. No. 446
PG

CRR 3817 of 2025
Jahiruddin Dafadar
Vs.
The State of West Bengal & Anr.

Mr. Allen FelixFor the Petitioner

1. Supplementary affidavit incorporating the order dated 19th August, 2025 filed by the petitioner is taken on record.
2. This is an application filed under section 528 of the BNSS read with section 442 of the BNSS, 2023 against the order dated 16th April, 2025 passed by the learned Judicial Magistrate, 4th Court, Purba Bardhaman, whereby an warrant of arrest has been issued against the petitioner without application of judicial mind in C.R. Case No. 750 of 2023.
3. It is the case of the petitioner that a complaint has been lodged falsely implicating him by the present opposite party no. 2 under section 138 of the N.I. Act. No summon was served upon the present petitioner when the date was fixed on 16th April, 2025 for appearance.
4. In the certified copy of the order dated 16th April, 2025, the next date was fixed on 19th August, 2025 for SR/Appearance when in the CIS the order was recorded as ER of WA. Apprehensive of being arrested, the petitioner has approached the learned Magistrate with a bail petition and requested the learned Court to recall the order dated 16th April, 2025 passed in C.R. Case No. 750 of 2023. However, the said prayer was turned down and the next date was fixed as 19th August, 2025.

5. It is mentioned that no SR was received but considering the postal track report, it has been shown as delivered and accordingly, the learned Magistrate issued warrant of arrest against the accused person fixing 27th October, 2025 for ER of WA. Being aggrieved, the petitioner has come before this Court.
6. Heard the submissions, perused the record and the order sheets annexed with the petition. On perusal of the order dated 16th April, 2025, it is seen that it was clearly mentioned therein that the date was fixed for SR/Appearance and by virtue of absent petition filed on behalf of the complainant, the matter was adjourned and no SR was received as on date fixing 19th August, 2025 for SR/Appearance.
7. The annexure to this revisional application at page 24 shows the CIS details of the order, which reflects that the next date is fixed on 19th August, 2025 for ER of WA. Prima facie, there is discrepancy shown in the order passed by the learned Court and the order uploaded in the website in the CIS. Subsequently, on going through the order passed on the next date i.e. 19th August, 2025 , it is seen that the SR was not received by the learned Court.
8. However, considering the postal track report showing delivery of the article to the accused person, no further date was given for appearance of the accused person when on the first date learned Magistrate issued warrant against the accused person. Both the orders primarily manifests the glaring defects in passing the direction for issuance of warrant.
9. In the first situation, the summons was not served admittedly and the order was also for fixing a date for appearance but CIS

shows the different version and on the second date, even the service has been effected, as has been considered by the learned Court and instead of fixing a date for appearance, passed the order of warrant of arrest.

10. Therefore, this Court by invoking the power under section 528 of BNSS is of the view that this is a fit case where direction is to be given to the learned Court to pass a fresh order considering the service effected upon the accused person fixing a date for appearance.
11. This Court is of the further view that this matter is taken up without giving any direction to serve notice upon the opposite parties as the opposite parties will not be prejudiced because of this order.
12. The matter pertains to an offence committed under the NI Act and opportunity must be given to the present petitioner before the learned Court to assail his defence. Accordingly, the order passed by the learned Magistrate on 19th August, 2025 is hereby set aside and this revisional application is disposed of with the aforesaid directions.
13. The learned Judicial Magistrate, 4th Court, Burdwan is directed to allow the present petitioner to appear on the next date fixed i.e. on 27th October, 2025 and pass such order/orders as is required under the legal parlance.
14. All parties are directed to act on the server copy of this order downloaded from the official website of this Hon'ble Court.

(Chaitali Chatterjee (Das), J.)