

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

CRR 257 of 2025

Utpal Kumar Ray

Vs.

The State of West Bengal & Anr.

For the petitioner
(in person)

:Mr. Utpal Kumar Ray, Adv.

For the State

:Mr. Aditi Shankar Chakraborty, Ld. APP
Mr. Aniruddha Biswas, Adv.

Heard On :

:23.07.2025

Judgment On

: 02.08.2025

Bibhas Ranjan De, J. :

1. The instant revision Application has been preferred assailing the order dated 25.03.2025 passed in connection with G.R. Case No. 341 of 2020 wherein Ld. Judicial Magistrate, 3rd Court, Sadar Cooch Behar had refused the prayer seeking necessary direction to supply copy of Mass Petition which was received by the investigating officer during investigation of this case.
2. Ld. Magistrate recorded his order for rejection on the ground of lack of jurisdiction to supply any such copy of mass petition which was not seized by the investigating officer and also on the ground that the petition was a misconceived one with the sole motive to unnecessarily drag the case. Being aggrieved, the petitioner has preferred the instant revision application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (herein after referred to as BNSS) with a prayer for setting aside of the impugned order dated 25.03.2025.
3. The petitioner, appearing in person, by referring to the charge sheet no. 143/20 dated 31.05.2019 has submitted that during investigation the investigating officer received a written mass petition from the villagers alleging inter alia that petitioner had threatened them with dire consequences and the I.O. upon

receipt of such mass petition submitted a non FIR prosecution report under Section 107 of the Code of Criminal Procedure (herein after referred to as CrPC) against the accused. Upon knowledge of such incident the petitioner had filed an application before Ld. Trial Court with a prayer for providing a copy of the said mass petition but the Ld. Trial Judge allegedly failed to consider the admissibility of the application and rejected the same by ignoring the statutory provision of law.

4. Per contra, Ld. Counsel, appearing on behalf of the State has vociferously contended that the document that has been sought for on behalf of the petitioner has not been seized by the I.O. during investigation and the existence of such document has only been mentioned in the charge sheet due to the fact that it was received relating to sudden activities of the accused for which a Non FIR Prosecution Report was submitted under Section 107 of the CrPC and it is not a part and parcel of the investigation which has been done in connection with this case.

5. Before parting with, Ld. Counsel alternatively argued that the prosecution under Section 107 of the CrPC is under the exclusive domain of the Executive Magistrate and therefore Ld.

Trial Judge/Judicial Magistrate has no jurisdiction to entertain the prayer made on behalf of the petitioner.

- 6.** Before delving into the material intricacies of the case at hand, for brevity of the discussion it would be pertinent to first discuss the specific provision of Section 107 of the CrPC (corresponding to Section 126 of the BNSS) which reads as follows:-

“107. Security for keeping the peace in other cases:-

1. When an Executive Magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility and is of opinion that there is sufficient ground for proceeding, he may in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond with or without sureties for keeping the peace for such period, not exceeding one year, as the Magistrate thinks fit.

2. Proceeding under this section may be taken before any Executive Magistrate when either the place where the breach of the peace or disturbance is apprehended is within his local jurisdiction or there is within such jurisdiction a person who is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act as aforesaid beyond such jurisdiction.”

7. Now coming to the argument advanced on behalf of the petitioner, specific reliance has been placed on the charge sheet wherein the I.O. made a specific observation to the effect that:-

“ I have received a written Mars Petition from Villagers of Kharabari, Burirpart P.S.- PNB/CBR against Utpal Roy @ Babul (46) S/O- Lt. Tarani Kanta Roy of Khagrabari, Shibjaggya P.S. – PNB/CBR that he threaten the villagers with dire consequences and I also submit a Non FIR prosecution U/S- 107 Cr.P.C against the accused Utpal Roy.”

8. Therefore, tone and tenor of the provision of the Section 107 CrPC clearly mandates the power of Executive Magistrate to deal with any information in connection with any person, who, is likely to commit a breach of peace or disturb the public tranquility or do any wrongful act and in that case Executive Magistrate may require such person to show cause as to why that particular person should not be ordered to execute a bond (with or without sureties) for keeping the peace for such period, not exceeding one year, as the Magistrate thinks fit. Now coming back to the instant case, from the charge sheet it appears that investigating officer of this case already

submitted a Non FIR Prosecution Report before the Jurisdictional Executive Magistrate. Therefore, Ld. Judicial Magistrate dealing with the case in hand surely lacks jurisdiction to pass any order thereby directing supply of a document of a record in connection with prosecution under Section 107 of the CrPC.

9. In that view of the matter, I find no perversity or infirmity or irregularity in the order passed by the Ld. Trial Judge and consequently I have no hesitation to dismiss the instant revision application which is devoid of any merit.
10. As a sequel, the instant revision application being no. CRR 257 of 2025 stands dismissed.
11. All parties to this revision application shall act on the server copy of this order downloaded from the official website of this Court.
12. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

[BIBHAS RANJAN DE, J.]