

July 3, 2025
Ap (79)

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Criminal Revisional Jurisdiction**

CRR 323 of 2025

Md. Ijaj @ Md. Sikandar & Anr.
Vs.
The State of West Bengal

Adv. Saikat Chatterjee
Adv. Purbasha Sarkar

...for the petitioner.

Adv. Tapan Bhattacharjee
Adv. Chattu Roy

.. for the State.

Adv. Debojit Kundu

... for the defacto-complainant

On prayer of the petitioner, leave is granted to correct the prayer portion of the application.

The petitioner has assailed the orders dated 28th February, 2025, 13th March, 2025, 21st March, 2025 and 10th April, 2025 passed by the learned Chief Judicial Magistrate, Jalpaiguri in G.R. case no. 5460 of 2024

Heard learned counsels for the parties.

It appears that warrant of arrest was issued by the learned Chief Judicial Magistrate, Jalpaiguri against the petitioners on 28th January, 2025. The learned Magistrate has recorded in the order dated 28th February, 2025 that no E/R of WA was received in respect of the petitioners. The same fact was also recorded in the order dated 13th March, 2025. Surprisingly, in the order dated 21st March, 2025 the learned Magistrate recorded receipt of proclamation upon service of the same to the petitioners and other co-accused. Warrant of

attachment was also issued by the same order. Again, the order dated 10th April, 2025 records that no E/R of W/P was received in respect of the petitioners and others. The Magistrate was of the view that warrant of proclamation would soon become effective and issued warrant of attachment against the petitioners.

The learned Magistrate recorded non-receipt of execution return of warrant of arrest. No warrant of proclamation was issued by the learned Magistrate or in fact, could have been issued under Section 82 of the Code of Criminal Procedure without receipt of non-execution return of warrant of arrest and recording his satisfaction with regard to issuance of warrant of proclamation. Surprisingly, without issuance of warrant of proclamation the learned Magistrate has recorded that warrant of proclamation was served upon the petitioners. Again, by the subsequent order dated 10th April, 2025 the learned Magistrate has directed issuance of warrant of attachment in contemplation of execution of warrant of proclamation which was not issued at all.

It shall be useful to reproduce Sections 82 and 83 of the Code.

“82. Proclamation for person absconding.- (1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

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.”

Without further deliberation on the issue, this Court holds that the orders impugned are de hors the law and should be set aside in so far as the petitioners are concerned.

Accordingly, the revisional application being CRR 323 of 2025 is allowed.

The orders impugned dated 28th February, 2025, 13th March, 2025, 21st March, 2025 and 10th April, 2025 passed by the learned Chief Judicial Magistrate, Jalpaiguri in G.R. case no. 5460 of 2024 in so far as the petitioners are concerned is set aside.

There shall however be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to have been admitted.

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

(Suvra Ghosh, J.)