

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

The Hon'ble **JUSTICE SUVRA GHOSH**

C.R.R. 278 of 2024

Amit Moitra
v/s.

State of West Bengal & Ors.

Petitioner-in-person: Mr. Amit Moitra

For the State: Mr. Aditi Shankar Chakraborty, Adv.,
Mr. Kallol Acharjee, Adv.

Judgment delivered on: 21-01-2025

SUVRA GHOSH, J. :-

1. The petitioner is aggrieved by the order passed by the Learned Judicial Magistrate, 2nd Court, Jalpaiguri on 28th February, 2024 in G.R. Case no. 73/2001. By the said order, the learned Magistrate directed issuance of summons upon the petitioner/defacto complainant and fixed 5th November, 2024 for his appearance, in default, for necessary order. The petitioner has also sought transfer of the case to an appropriate Court in Kolkata since he is suffering from serious ailments and is unable to travel to Jalpaiguri for the case. Further, the petitioner seeks compensation under section 395/396 of the BNSS in terms of the judgment of the Hon'ble Supreme Court in Criminal Appeal no. 99 of 2015 dated January 16, 2015 as well as an order of a co-ordinate Bench of this Court dated 27th February, 2023 passed in C.R.R. 2419 of 2007.

2. Heard learned counsels for the parties.
3. The petitioner lodged an FIR against the private opposite parties which was registered as Kotwali P.S. Case no. 22 of 2001 dated 20th January, 2001 corresponding to G. R. Case no. 73 of 2001. The petitioner was the principal witness of the case. Since the learned Trial Court failed to secure the presence of the petitioner, an order was passed under section 258 of the Code of Criminal Procedure, thereby discharging the accused persons. In the revisional application being C.R.R. 2419 of 2007 preferred by the petitioner, a co-ordinate Bench of this Court, by an order passed on 27th February, 2023, set aside the order of the learned Trial Court and directed the learned Trial Court to commence the proceeding by serving notice upon the accused persons and summons upon the petitioner/victim/defacto complainant at his Kolkata address. This Court recorded that if the petitioner failed to appear before the Court despite receipt of summons, the Court would have the authority to pass an appropriate order in accordance with law. In compliance with the said order, summons was issued upon the petitioner and as the petitioner did not appear before the learned Trial Court on the relevant date, fresh summons was issued by the order impugned dated 28th February, 2024. There being no illegality or irregularity in the said order, interference by this Court is not called for.
4. With regard to the second prayer of the petitioner for transfer of the case to any Court in Kolkata, the State has no objection. Considering the health of the petitioner as appears from the documents on record, G.R. Case no. 73 of 2001 pending before the Learned Judicial Magistrate, 2nd

Court, Jalpaiguri be transferred to the learned Chief Judicial Magistrate, Calcutta for disposal.

5. The learned Judicial Magistrate, 2nd Court, Jalpaiguri is directed to transmit the case record along with annexure thereto to the Court of the learned Chief Judicial Magistrate, Calcutta within seven days from the date of communication of this judgment. The learned Chief Judicial Magistrate, Calcutta shall either deal with the case himself or assign the same to any Magistrate within his jurisdiction for trial.
6. Thirdly, the petitioner seeks compensation under sections 395/396 of the BNSS primarily on the ground that he has been referred to as a victim by this Court in the order dated 27th February, 2023 in C.R.R. 2419 of 2007 and has also suffered immensely at the instance of the private opposite parties. Section 395 deals with payment of compensation payable to any person entitled when the Court imposes a sentence of fine or a sentence of which fine forms a part meaning thereby that payment of such compensation can be considered upon an order of conviction being passed. Section 396 deals with victim compensation scheme whereby every State Government in coordination with the Central Government shall prepare a scheme for providing funds for the purposed of compensation to the victim/ his dependents.
7. In Criminal Appeal 99 of 2015 referred to by the petitioner, the Hon'ble Supreme Court has dealt with section 357 of the Code of Criminal Procedure in the appeal which was preferred against a judgment and order of the High Court of Rajasthan at Jaipur. In other words, the issue of compensation was dealt with after final disposal of the case.

8. The proceeding being G.R. Case no. 73 of 2001 in connection with which the petitioner claims compensation is pending before the learned Trial Court and the petitioner's prayer may be considered after the case is finally disposed of.
9. However, considering the period for which the case is pending, the learned transferee Court is directed to take the proceedings to its logical conclusion as expeditiously as possible, with granting any unnecessary adjournment to either of the parties, in accordance with law.
10. The revisional application being C.R.R. 278 of 2024 is accordingly disposed of.
11. All parties shall act on the server copy of this judgment duly downloaded from the official website of this Court.
12. Urgent certified website copies of this judgment, if applied for, be supplied to the parties expeditiously on compliance with the usual formalities.

(Suvra Ghosh, J)