

19.08.2025
SL. 6
Court No. 3
Sourav

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

**C.R.R. 371 of 2024
With
C.R.A.N. 4 of 2025**

In re: An application Under Section 482 of the Cr.P.C., 1973
corresponding to Section 528 of the Bharatiya Nagrik
Suraksha Sanhita, 2023.

And

In the matter of: **Mitali Bardhan**

... petitioner.

Mr. Sanjay Mazoomdar
Ms. Sukanya Adhikary

... for the petitioner.

Mr. Kallol Acharjee
Mr. Tapan Bhattacharjee

... for the State.

Mr. Milindo Paul
Mr. Nabankur Paul
Ms. Sutapa Sen Paul
Ms. Bedashruti Bose
Mr. Subham Das
Mr. Bodhisatya Ghosh

... for the opposite party.

1. This is an application under Section 528 of BNSS.
2. At the time of hearing, learned advocate appearing on behalf of the revisionist at the very outset draws attention of this Court to Page No. 22 of the instant revisional application, being a copy of an application under Section 39 of the BSA corresponding to Section 45 of the Indian Evidence Act.
3. It is submitted on behalf of the revisionist that after receipt of a defective summons from the learned trial Court, the revisionist who is the accused in C.R. Case No. 3 of 2024 has filed the said application, however, the learned trial

Court made no endeavour to dispose of the said application as filed by the accused and on the contrary, the learned trial Court went on in proceeding with the main case without giving due adherence to the application as filed by the accused under Section 39 of BSA.

4. In his next fold of submission, it is further submitted on behalf of the revisionist that on 17.09.2024, the accused could not appear before the learned trial Court on account of a 'Shraddha' ceremony in her house and as a result whereof, the learned trial Court was pleased to issue warrant of arrest against her.
5. Drawing attention to Page No. 30 of the instant revisional application, it is further submitted on behalf of the revisionist/accused that soon thereafter, i.e., on 19.09.2024, the petitioner filed an application for put up for surrender and for grant of bail by recalling the order no. 20 dated 17.09.2024 and even, such put up application was not heard by the learned trial Court.
6. It is thus submitted that considering the conduct of the learned trial Court, the present revisionist has every apprehension that she may not get justice from the learned trial Court and accordingly, the revisionist prays for an appropriate order for setting aside the order no. 20 dated 17.09.2024 with a further prayer for transfer of C.R. Case No. 3 of 2024 from the Court of learned ACJM, Kurseong to any other Court of Judicial Magistrate, 1st Class in the self-

same district/sub-division.

7. Such prayer is, however, opposed by the opposite party/complainant. It is submitted that no case has been made out for interfering with the order impugned dated 17.09.2024. It is further submitted that in terms of the order impugned, the present accused/petitioner has not yet surrendered before the learned trial Court.
8. On careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, this Court finds some merit in the instant revisional application since from the materials as placed before this Court, it does not transpire that the learned trial Court had made any endeavour to dispose of the application under Section 45 of the Indian Evidence Act corresponding to Section 39 of BSA as filed by the accused.
9. This Court also finds no whisper in the certified copy of the order sheets regarding filing of the put up application dated 19.09.2024.
10. Such being the position, this Court while disposing the instant revisional application, set aside order no. 20 dated 17.09.2024 as passed by the learned trial Court in C.R. Case No. 3 of 2024 and directs the present accused/revisionist to appear before the learned ACJM, Kurseong positively within 15 working days from today.
11. In the event, the present accused/petitioner appears before the learned trial Court within the period as mentioned

hereinabove, the learned trial Court will permit the present accused/revisionist to remain on same bail as before.

12. The time limit as fixed by this Court is mandatory and peremptory.
13. It is further directed that thereafter the present accused/revisionist shall remain present in-person before the learned trial Court on each and every date of substantive hearing unless her personal appearance is exempted by the said trial Court by passing a reasoned order.
14. Before parting with, this Court directs the learned trial Court i.e., the Additional Chief Judicial Magistrate, Kurseong, to search out the application under Section 45 of the Indian Evidence Act corresponding to Section 39 of BSA and in the event, the same can be traced out, the learned trial Court is directed to dispose of the said application within 30 working days from date of the communication of the server copy of this order.
15. It is further ordered that in the event, the said application under Section 45 of the Indian Evidence Act corresponding to Section 39 of BSA is not traceable, liberty is given to the learned advocate for the accused to file similar such application afresh before the learned trial Court after serving a copy of the same to the learned advocate for the complainant and the learned trial Court is once again directed to dispose of the said application within 30 working

days from the date of filing of the said application.

16. It is made known to this Court that the erstwhile presiding officer of the learned trial Court has already been transferred and a new presiding officer has joined.
17. Such being the position, this Court finds no reason to pass an order for transfer as prayed for.
18. Since, it has been ventilated before this Court that along with the summons, the petitioner only received a copy of the complaint under Section 138 of the N.I. Act, 1881 without any annexure, learned trial Court shall direct the learned advocate on record for the complainant to provide a complete set of application under Section 138 of the N.I. Act to the learned advocate on record of the accused before the learned trial Court preferably within 15 working days from the date of communication of the server copy of this order.
19. Liberty is given to the learned advocate on record to communicate the server copy of this order to the learned trial Court.
20. Learned trial Court is directed to act on the basis of the server copy of this order.
21. Department is also directed to forward a copy of this order to the learned trial Court forthwith.
22. With the aforementioned observations, the instant criminal revisional application being **CRR 371 of 2024** is disposed of.
23. In view of the disposal of CRR 371 of 2024 all pending

interlocutory applications including **CRAN 4 of 2025** is/are disposed of.

(Partha Sarathi Sen, J.)