

29.06.2026

Serial no. 16

[Srimanta]

Ct. No. - 29

CRR 314 of 2026

In re : An Application under Sections 401 read with Section 482 of the Code of Criminal Procedure, 1973 corresponding to Section 442 read with Section 528 of the Bharatiya Nagarik Sureaksha Sanhita, 2023

-And-

In the matter of : XXX AND ANOTHER

... .. Petitioners

Mr. Suman De, Advocate

... .. *For the Petitioners.*

*Mr. Kallol Mondal, Ld. P.P.,
Mr. Imran Siddiqui, Advocate*

.....*For the State.*

1. Petitioners herein are aggrieved with the order dated 23.04.2025 by which the Court below passed an order as follows:-

"Hence, issue E/R of W/A against two accused persons....."

2. Being aggrieved by the aforesaid order, learned Counsel for the petitioners in respect of whom the said order is passed submits that the petitioner no. 1 surrendered before the Court on 11.10.2023 and petitioner no. 2 surrendered on 02.09.2023 and obtained bail. After completion of investigation, Police submitted charge-sheet on 28.12.2023 under Sections 498A/354B/325/307/34 of the Indian Penal Code against four accused persons and the petitioners were not charge-sheeted at that relevant point of time.

3. Victim filed a writ application being WPA/4616/2025 before this High Court and by an order dated 12.03.2025, this Court disposed of the writ application and on the strength of the said order of the High Court, the de facto complainant filed an application for further investigation which was allowed by a non-speaking order. Thereafter, the Investigating Agency submitted a supplementary charge-sheet on 15.04.2025 against the present petitioners also. Immediately, after receiving the supplementary charge-sheet, the Court below passed the impugned order as above.
4. Being aggrieved by the order, learned Counsel for the petitioners submits that without serving any notice upon the petitioners who were initially not charge-sheeted, the Court below passed an order which does not carry any sense. It is also not clear as to how without issuing warrant of arrest he can fix a date for execution report of warrant of arrest. In such circumstances, the order impugned is perverse and liable to be set aside.
5. Mr. Siddiqui, learned Counsel on behalf of the State submits that from the order-sheet as submitted by the petitioner, it is disclosed that after filing of the supplementary charge-sheet against the present petitioners, no notice was issued to the petitioners and as such the Court below was not justified in fixing a date for execution report of warrant of

arrest without having been issued any warrant of arrest. In view of aforesaid submission made on behalf of the petitioners, I find that the order impugned dated 23.04.2025 suffers from perversity and impropriety and, therefore, is not sustainable in the eye of law.

6. In view of above, the CRR/314/2026 is allowed.

7. The impugned order no. 5 dated 23.04.2025 which pertains to the below quoted portion is hereby set aside.

"Hence, issue E/R of W/A against two accused persons.

The case is adjourned today.

Fixing 10.06.2025 for E/R of W/A against two accused persons".

8. However, this order will not be interpreted to mean that this Court has exempted the appearance of the accused persons before the Court below as and when he would be asked to appear before the Court below.

(Dr. Ajoy Kumar Mukherjee, J.)