

13.05.2026

Sl. No.12.

D/L.

Mithun.

Ct.No.29.

CRR/1941/2026

Tanmay Kanti Biswas

Vs.

The State of West Bengal & Anr.

Mr. Kushal Paul,
Mr. Saptarshi Dutt

...for the petitioner

The petitioner herein is aggrieved with the order dated 15.10.2025 by which the petitioner's application filed under Section 311 of Cr.P.C. was rejected.

Being aggrieved by and dissatisfied with the order, learned Counsel for the petitioner submits that the present petitioner and some other accused persons were roped under Section 498A and 406 of IPC read with Section 3 /4 of the Dowry Prohibition Act. After completion of evidence of prosecution, the accused persons were examined under Section 313 of the Cr.P.C. Thereafter, the accused persons made a prayer under Section 311 of the Cr.P.C. for examination of learned Advocate Sabyasachi Jana who was the Advocate of *de facto* complainant. After considering the submission made on behalf of both the parties, learned Trial Court by an order dated 06.08.2024 was pleased to allow the recall petition filed by the accused persons under Section 311 of the Cr.P.C. and fixed the next day for evidence on recall .

However, in the meantime, the *de facto* complainant preferred a criminal revisional application before learned Additional District & Sessions Judge, 14th Court, Alipore against the said

order. The Revisional Court while disposing of the revision by its order dated 30th August, 2025 had made observation that the High Court may invoke and exercise authority of the revisional jurisdiction at the instance of any third party including the *de facto* complainant or the victim of a police case. However, such revisional application at the instance of the third party/victim/*de facto* complainant or anyone else cannot be entertained by the Court of Sessions while exercising its revisional jurisdiction. Accordingly, on that technical ground, the Court below rejected the criminal revisional application being no.358 of 2024.

I am told that the *de facto* complainant or the State has not challenged the said order of the Court below. Since the Court below has rejected the revisional application on the ground of technicalities more specifically on the ground that the revisional application against the impugned order dated 06.08.2024 does not lie before Sessions Court, it appears that the order dated 06.08.2024 stands even after rejection of the revisional application being no.358 of 2024 because nowhere Court below observed that said order dated 06.08.2024 has been set aside.

However, after rejection of such revisional application, the petitioner/accused persons prayed before the trial Court for recalling the said witness for cross-examination but the Trial Court without assigning any reason had rejected such prayer in spite of the fact that order dated 06.08.2024 still stands and thereby issued warrant of arrest against the present petitioner, Tanmay Kanti Biswas.

Having considered the aforesaid facts and circumstances of the case, the instant application being CRR 1941 of 2026 is hereby disposed of with a direction upon the Trial Court to act in accordance with his order passed on 06.08.2024 regarding recalling and re-examination of the concerned witness as said order has not been set aside by any competent Court of law.

In view of above, the impugned order dated 15.10.2025 which pertains to rejection of the petitioner's prayer for recalling the witness under Section 311 of the Cr.P.C. is hereby set aside.

Petitioner herein is hereby given liberty to surrender before the Court within two weeks from the date of this order. In the event of such surrender by the petitioner before the Court below, the Court shall dispose of his prayer in accordance with law without being influenced by any observation made herein.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court, Calcutta.

(Dr. Ajoy Kumar Mukherjee, J.)