19.11.2026
Court No.34
I.No.4
sg

CRR 2864 of 2024
in
CRAN 2 of 2025, CRAN 3 of 2026, CRAN 4 of 2026

In the matter of : **Monidipa Mukherjee**
Petitioner.

Mr. Pawan Kr.Gupta
Ms. Sofia Nesar
Mr. Santanu Sett
….for the petitioner.

Mr. Debasis Nandi
…for the opposite party no.2.

Mr. Dipayan Dan
…for the State.

1. The instant revisional application has been filed on behalf of the petitioner claiming to be the wife of the First Information Report named accused persons in connection with Das Nagar Police Station Case No. 199 of 2023 dated 10.11.2023 filed under Sections 420/406 of the Indian Penal Code, 1860 by the present opposite party no.2 for setting aside the order passed by the learned Chief Judicial Magistrate 31.01.2024.

2. It can be gathered from the submission advanced by the petitioner as well as on perusal of the pleading that the husband of the present petitioner is a businessman deals with Iron and steel business .He had an acquaintances with the opposite party No.2 since last 12 years due to having business dealings. A

complaint has been lodged by the opposite party no.2 against the husband of the petitioner alleging that the opposite party no.2 invested a total amount of Rs. 11,60,000/- lac and paid the said amount through a bank channel and the other partners being Sankar Ghosh and Kaushik Ghosh also invested certain amounts and the husband invested Rs. 7,69 lac by cheque and Rs. 10.5 lac in cash .The investment was made directly in the joint Bank account of the petitioner and her husband in the Bank of Baroda . Suddenly the present petitioner came to know that in connection with the complaint lodged against her husband the said joint account has been freezed.

3. It is the specific contention that no prior notice was even served to the present petitioner who is joint account holder because of the freezing such joint account which is lying with the husband, the present petitioner account has been freezed. It is further contended that account not only freezed but substantial amount transferred to such joint account of the defact-complainant when the present petitioner was in absolutely in dark. It is contented transfer of such account without giving any prior notice in accordance with law and therefore, order passing of the freezing account is not sustainable in the eye of law.

4. On 31st January, 2024, the defacto-complainant prayed for return of the cash amount of Rs. 7, 87,140.96/- and after hearing the learned Magistrate passed an order to hand over such amount from the said joint account to the defacto-

complainant and accordingly the bank authorities were also directed to provide all sorts of assistance. In consonance with such order such amount has been transferred in favour of opposite party no.2 who has received same furnishing a bond to that extent. The petitioner has therefore come before this court for setting aside of such order since she was completely in dark about freezing of account and she was not heard.

5. Learned advocate representing the opposite party no.2 on the other hand, raised vehement objection and submits that in course of investigation the police authorities have collected materials and the relevant bank papers where it was prima facie shown, lying in the name of the husband of the petitioner only. That apart present petitioner is no way connected in the case and neither her name appears in the First Information Report and she never approached the trial court. Further submits that it is a conspiracy hatched by the present petitioner and her husband so that the amount which has been transferred in favour of the opposite party no 2 can be released in her favour and such an action should not be encouraged by this court while exercising inherent power and hence the revisional application is not maintainable in the eye of law and it should be dismissed. On behalf of prosecution the case diary is produced. It is the contention of the Learned Advocate representing State that the materials were duly collected by the investigating officer and notice was served to the husband of the petitioner and after

complying all the formalities in accordance with law such order was passed by the learned Magistrate. Accordingly the account was freeze and the amount alleged was transferred. No materials were collected in order to show that the account was lying in the joint name of the husband of the present petitioner. Accordingly submits that present petitioner being a third party has no locus standi to file this revisional application before this court and therefore the instant revisional application is not maintainable and is liable to be dismissed.

6. Having heard learned advocates and on perusal of the materials on record prima facie it is evident that the present petitioner is not an FIR named accused and in course of investigation also her name was not transpires

7. Fact remains pursuant to the order passed by the learned Magistrate such account was not only freezed but on the prayer of the opposite party the said amount of more than of Rs. 7 lacs were transferred to the account of the present opposite party.

8. It is undisputed in terms of Section 106 of BNSS the police is empowered to seize the bank account and should intimate jurisdictional Magistrate at an earliest and in the present case the same was duly followed. The documents annexed by the petitioner in this revisional application includes the photocopy of the front page of the pass book of the same account which shows the name of the present petitioner as

joint account holder however that fact is not found in the materials collected in course of investigation and not found in the case diary. Therefore only on the basis of this photocopy of this passbook, this Court cannot ascertain whether at all present petitioner is the joint account holder or not.

9. However it goes without saying that this court do not find any materials to hold that the said order passed by the learned Magistrate suffers from any illegality since this fact was never brought to the notice of the court , as no materials placed before the learned Magistrate in order to ascertain whether at all the said account was lying in the joint name with the present petitioner Usually in a criminal proceedings a the third party being complete stranger ,against whom no adverse averment, allegation or any incriminating materials found as of date ,has any locus standi to assail any order passed by a learned Magistrate .

10. This is also settled position of law as laid down in the catena of decision that inherent powers under section 482 CrPC do not confer any arbitrary jurisdiction on the High Court to act according to whims or caprice but to be exercised sparingly with circumspection and in the rarest of rare cases. In the case of M/S Neeharika Infrastructure Pvt. Ltd vs State of Maharashtra. The Hon'ble Supreme Court observed that the functions of the judiciary and the police are complementary ,not overlapping ,and the combination of individual liberty with a due observance

of law and order is only to be obtained by leaving each to exercise its own function.

11. In the instant case the petitioners have tried to justify by way of pleading as how the business suffered and covid made a severe impact in the business but this is not the right platform to justify support her husband when a criminal complaint is lodged against him. However the statue requires that before freezing any account a notice to be given to the holder of the account and the husband of the petitioner never made any grievance about the same.

12. It is also a settled proposition of law that there cannot be a blanket order of seizing the bank account but in this case curiously it was never placed before the court that the account was a joint account.

13. It appears from the report submitted by the Das Nagar police station, HPC 1 through GRO Sadar Court, Howrah dated 29th January, 2024,which clearly reflects that the account was lying only in the name of Sumit Mukherjee the principal accused and whether that is a false report submitted to misled the Court as argued by the petitioner cannot be ascertained by this court at this stage as considering the said report submitted before the learned Magistrate passed the order impugned . Therefore, if any point is to be raised regarding the authenticity of such report same can be done before the appropriate forum.

14. The petitioner has annexed a photocopy of the bank passbook to show that she is a joint account holder and hence the investigating officer is directed to ascertain the authenticity of the same and to furnish a report before the Learned Magistrate.

15. The Learned Magistrate is further directed to consider such report and to take all necessary steps in accordance with law.

16. Accordingly, this revisional application stands disposed of with the aforesaid observation.

17. Parties are to act on the server copy of this order downloaded from the official *website* of the Calcutta High Court.

[Chaitali Chatterjee (Das), J.]