

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
(Criminal Revisional Jurisdiction)
APPELLATE SIDE**

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 359 of 2025

Tapasi Pathak

Vs.

The State of West Bengal & Anr.

For the Petitioner : Mr. Hillol Saha Podder.

For the State : Mr. Avrojoyti Das, Ld . APP
Ms. Panchali Deb Sikder (Nag).

Judgment reserved on : 15.06.2026

Judgment delivered on : 15.06.2026

Shampa Dutt (Paul), J.:

1. The present revisional application has been preferred challenging orders dated 31.10.2023 and 05.06.2025 passed by the learned Additional Chief Judicial Magistrate, Kurseong in connection with GR Case No. 04 of 2023 arising out of Kurseong Police Station Case No. 02 of 2023 dated 02.01.2023 under Sections 406/420 of the Indian Penal Code, 1860.

2. Vide the impugned order dated 31.10.23, the learned Trial Court held as follows:-

“Received charge sheet being no 155/2023 dated 30/09/2023 u/s 406/420 of IPC in connection with Kurseong PS Case No.02 of 2023 from ASI Santanu Sarkar of Kurseong police station, District Darjeeling against Brijesh Chakraborty.

I have heard the submission, perused the FIR, case diary, charge sheet and other materials on record.

I find prima face case for offence punishable u/s 420/406 IPC against Brijesh Chakraborty and Tapasi Pathak. Thus there is sufficient ground to proceed against Brijesh Chakraborty and Tapasi Pathak for committing offence punishable u/s 420/406 IPC. Therefore, cognizance for offence punishable u/s 420/406 IPC is taken against accused 1) Brijesh Chakraborty, s/o Late Paresh Chandra Chakraborty of 24 Saha Nagar Road, PO Kalighat, PS Tollygunge, Kolkata, 700026 and 2) Tapasi Pathak, D/O Raj Kishor Pathak of village Thiknikata, PS Matigara, District Darjeeling.

Issue process/summons against accused 1) Brijesh Chakraborty, s/o Late Paresh Chandra Chakraborty of 24 Saha Nagar Road, PO Kalighat, PS Tollygunge, Kolkata, 700026 and 2) Tapasi Pathak, D/O Raj Kishor Pathak of village Thiknikata,

PS Matigara, District Darjeeling for committing offence punishable u/s 420/406 IPC

To 28.11.2023 for SR and appearance.

Sd/-
ACJM, Kurseong”

3. The impugned order dated 05.06.2025 is as follows:-

“Order No.27

05.06.2025

Present: Mr. Saroj Sinha, Ld APP for the State.

Today is fixed for ER of WA

No ER of WA of accused no.1 received.

Ld. defence counsel for accused. No. 2 moves the petitions dated 01.03.2025 and submits that accused No. 2 has not been charge sheeted in this case nor did any supplementary charge sheet submitted against accused No. 2. He also submits that the warrant of arrest against accused No. 1 is pending for long time so accused No. 2 is not in a position to file an application u/s 239 of Cr.PC for her discharge. Therefore accused No. 2 has filed the instant petition to expunge her from this case. Ld. defence counsel finally prays to expunge accused No. 2 Tapashi Pathak from this case.

Later. Ld. APP submits that there are sufficient material against the accused No. 2 in the case diary so accused. No. 2 should not be expunged without trial from this case.

I have heard the submission, perused the petition, case record and considered.

I find from the case record that this case was instituted on 03.01.2023 and accused No.2 Tapashi Pathak got anticipatory bail from the court of Ld Sessions Judge, Darjeeling vide order No. 02 dated 09.10.2023 in connection with CMC No. 350 of 2023 arising out of GR Case No. 04 of 2023. Thereafter charge sheet was submitted on 31.10.2023 and this court vide, order No. 11 dated 31.10.2023 took cognizance of offence punishable u/s 420/406 of IPC against Brijesh Chakraborty and Tapashi Pathak. Furthermore, the warrant of arrest of accused No. 1 is still pending so copy of relied document of the prosecution could not be supplied to the accused persons and this case has not arrived at the stage of discharge of accused u/s 239 of CrPC. Moreover, there is no provisions in Criminal Procedure Code, 1973 to expunge accused No. 2 Tapashi Pathak against whom this court has issued summon after taking cognizance of offence punishable u/s 406/420 of IPC. Therefore, I do not find any merit in the petition of the accused No. 2 so it is liable to be rejected at this stage.

Hence, it is

Ordered

that the petition dated 01.03.2025 of accused no.2 is rejected on contest.

To 09.07.2025 for ER of WA and appearance.

***Sd/-
ACJM, Kurseong***

- 4. Learned counsel for the State has submitted the case diary and fairly submitted that as there was no materials in the case diary, the petitioner herein was not charge sheeted.**
- 5. It appears from the impugned order that the learned Magistrate who has proceeded to hold that there is prima facie case for offence punishable under Sections 420/406 of IPC present against the present petitioner along with the charge sheeted sole accused, **has not given any reasons for such finding of prima facie case. No reason has also been provided as to what is the sufficient ground for proceeding against the present petitioner, who has not been charge sheeted after completion of investigation. The impugned order is devoid of any reason whatsoever.****
- 6. In *State Project Director U.P. Education for All Project Board & Ors. Vs. Saroj Maurya & Ors., in Civil Appeal No. 3465 of 2023, decided on 21st August, 2024*, the Supreme Court held:-**

*“3. We are of the opinion that in the absence of any reasoning in the impugned judgment, the same cannot be sustained. In this regard, we are benefitted by the following observations made by this Court in **CCT v. Shukla & Bros., (2010) 4 SCC 785**. The relevant paragraphs of the judgment are extracted hereinbelow: -*

“23. We are not venturing to comment upon the correctness or otherwise of the contentions of law raised before the High Court in the present petition, but it was certainly expected of the High Court to record some kind of reasons for rejecting the revision petition filed by the Department at the very threshold. A litigant has a legitimate expectation of knowing reasons for rejection of his claim/prayer. It is then alone, that a party would be in a position to challenge the order on appropriate grounds. Besides, this would be for the benefit of the higher or the appellate court. As arguments bring things hidden and obscure to the light of reasons, reasoned judgment where the law and factual matrix of the case is discussed, provides lucidity and foundation for conclusions or exercise of judicial discretion by the courts.

24. Reason is the very life of law. When the reason of a law once ceases, the law itself generally ceases (Wharton's Law Lexicon). Such is the significance of reasoning in any rule of law. Giving reasons furthers the cause of justice as well as avoids uncertainty. As a matter of fact it helps in the observance of law of precedent. Absence of reasons on the contrary essentially introduces an element of uncertainty, dissatisfaction and give entirely different dimensions to the questions of law raised before the higher/appellate courts. In our view, the court should provide its own grounds and reasons for rejecting claim/prayer of a party whether at the very threshold i.e. at admission stage or after regular hearing, howsoever concise they may be.

25. We would reiterate the principle that when reasons are announced and can be weighed, the public can have assurance that process of correction is in place and working. It is the requirement of law that correction process of judgments should not only appear to be implemented but also seem to have been properly implemented. Reasons for an order would ensure and enhance public confidence and would provide due satisfaction to the consumer of justice under our justice dispensation system. It may not be very

correct in law to say, that there is a qualified duty imposed upon the courts to record reasons.

26. Our procedural law and the established practice, in fact, imposes unqualified obligation upon the courts to record reasons. There is hardly any statutory provision under the Income Tax Act or under the Constitution itself requiring recording of reasons in the judgments but it is no more res integra and stands unequivocally settled by different judgments of this Court holding that the courts and tribunals are required to pass reasoned judgments/orders. In fact, Order 14 Rule 2 read with Order 20 Rule 1 of the Code of Civil Procedure requires that, the court should record findings on each issue and such findings which obviously should be reasoned would form part of the judgment, which in turn would be the basis for writing a decree of the court.

27. By practice adopted in all courts and by virtue of judge-made law, the concept of reasoned judgment has become an indispensable part of basic rule of law and, in fact, is a mandatory requirement of the procedural law. Clarity of thoughts leads to clarity of vision and proper reasoning is the foundation of a just and fair decision. In Alexander Machinery (Dudley) Ltd. [1974 ICR 120 (NIRC)] there are apt observations in this regard to say “failure to give reasons amounts to denial of justice”. Reasons are the real live links to the administration of justice. With respect we will contribute to this view. There is a rationale, logic and purpose behind a reasoned judgment. A reasoned judgment is primarily written to clarify own thoughts; communicate the reasons for the decision to the concerned and to provide and ensure that such reasons can be appropriately considered by the appellate/higher court. Absence of reasons thus would lead to frustrate the very object stated hereinabove.”

- 7.** Thus the unreasoned order of the learned Magistrate suffers from inherent defects and permitting such an order to remain shall be an abuse of process of law.

8. Accordingly, in the interest of justice, the order under revision is hereby set aside.

9. CRR 359 of 2025 is allowed.

10. The orders dated 31.10.2023 and 05.06.2025 passed by the learned Additional Chief Judicial Magistrate, Kurseong in connection with GR Case No. 04 of 2023 arising out of Kurseong Police Station Case No. 02 of 2023 dated 02.01.2023 under Sections 406/420 of the Indian Penal Code, 1860, **is hereby quashed in respect of the petitioner namely Tapasi Pathak.**

11. All connected applications, if any, stands disposed of.

12. Interim order, if any, stands vacated.

13. Copy of this judgment be sent to the learned Trial Court for necessary compliance.

14. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)