

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

CRR 268 of 2024

Bimbadhar Mohakud & Anr.

Vs.

Bina Shah

For the petitioner

:Mr. Ayan Bhattacharjee, Sr. Adv.

Mr. Nabankur Paul, Adv.

Ms. Sutapa Sen Paul, Adv.

Mr. Zulfiqar Ali Ali Quaderi, Adv.

Mr. Aditya Sarkar, Adv.

Ms. Bedasruti Bose, Adv.

Mr. Subham Das, Adv.

Mr. Bodhisatya Ghosh, Adv.

For the Respondent

:Mr. Krishan Lal Lohia, Adv.

Mr. D. Dhar, Adv.

Heard On :

:08.04.2025

Judgment On :

:11.04.2025

Bibhas Ranjan De, J. :

1. This revision application has been preferred by assailing the proceeding in connection with Misc. Execution Case No. 55 of 2024 arising out of C.R case no. 1344 of 2023 under Sections 420/409/406/418/425 of the Indian Penal Code (for short IPC).

Arguments advanced :-

2. Ld. Senior Counsel, Mr. Ayan Bhattacharjee, appearing on behalf of the petitioners by drawing the attention of this Court to the order dated 17.05.2024 passed by the Hon'ble Co-ordinate Bench in connection with C.R.R. 183 of 2024 has submitted that an order of stay of the entire proceeding in connection with C.R. case no. 1344 of 2023 as well as execution of warrant of arrest was promulgated.
3. By referring to another order dated 21.05.2024 passed by the Ld. Trial Judge, Mr. Bhattacharjee has vehemently submitted that the order of stay passed by this Hon'ble Court was duly communicated to the Ld. Trial Court and same was kept on record. At this juncture, Ld. Senior Counsel has further drawn my attention to an application made under Section 10 read with Section 15 and 12 of the Contempt of Court Act, 1971.

- 4.** On receipt of such application, the Ld. Trial Judge registered the same as Misc. (Exe.) Case No. 55 of 2024 in connection with C.R. Case No. 1344 of 2023 and allegedly passed one cyclostyle order invoking the provision of Section 125 (3) of the Code of Criminal Procedure for the reason best known to him. Thereby, taking cognizance of the contempt application for recovery of outstanding maintenance.
- 5.** Per contra, Mr. Krishan Lal Lohia Ld. Counsel appearing on behalf of the Respondent has submitted that though the proceeding of the complaint case being no. 1344 of 2023 was stayed by the Co-ordinate Bench of this Court in connection with C.R. No. 183 of 2024 but there is no bar in filing the contempt application for violation of the order passed by the Ld. Trial Court in connection with complaint case being no. 1344 of 2023 .
- 6.** Having heard the Ld. Counsel appearing on behalf of the parties as well as after perusing the documents annexed with this revision application it has come to my utter despair that when the proceeding with respect to C.R 1344 of 2023 was already stayed by the Co-Ordinate Bench of this Hon'ble Court vide order dated 17.05.2024 then how come the Ld. Trial

Judge initiate contempt proceedings in connection with the Misc. (Exe.) case no. 55 of 2024.

7. Now, if I shift my focus towards the orders dated 12.07.2024 and 18.07.2024 respectively, it would be crystally clear that such orders were made without any sort of application of mind. Moreover, they appear to be written in a cyclostyle and mechanical manner which is highly unexpected from a responsible Judicial Officer, discharging his/her official duty. It is more astonishing especially because of the fact that the order of stay was indeed within the knowledge of the Ld. Trial Judge while furnishing orders in connection with the Misc. (Exe.) case. Then, how come the Ld. Judge make such orders is beyond my apprehension and imagination.
8. In the premises set forth above, the Ld. Trial Judge is ought to be reminded of the provisions of Section 10 & 15 of the Contempt of Court Act, 1971 which clearly prescribes that only the **High Court has the power to take cognizance of contempt concerning Sub- Ordinate Courts.**
9. The Hon'ble Apex Court in a wide range of cases has emphasized that the Sub-Ordinate Courts cannot initiate contempt proceeding or issue showcase notices regarding

contempt. They may only refer matters to the High Court for consideration as initiation of such proceedings require a conscious application of mind. Therefore, if a Sub-Ordinate Court identifies a potential contempt, it must make a reference to the High Court rather than taking direct action which has taken place in the case at hand.

10. In the light of the aforesaid discussion, I am deeply infuriated with the way the Ld. Trial Judge has passed the orders in connection with the Misc. (Exe.) case no. 55 of 2024 which have no legal sustainability in the eye of law.

11. Therefore, the entire proceeding in connection with the Misc. (Exe.) case no. 55 of 2024, being devoid of any legal sanction, is hereby quashed.

12. As a sequel, the instant revision application being no. CRR 268 of 2024 stands allowed.

13. However, I would like to add that although I am not inclined to pass any adverse observation about the capability of the Ld. Trial Judge through this order, I would except that the concerned Ld. Judge would keep the basic legal procedures in mind before passing orders in future.

14. With the aforesaid observation the revision application stands disposed of.
15. Connected applications, if there be any, stand disposed of accordingly.
16. All parties to this revision application shall act on the server copy of this order downloaded from the official website of this Court.
17. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

[BIBHAS RANJAN DE, J.]