

IN THE COURT OF CHIEF JUDGE, CITY SESSIONS COURT, CALCUTTA.

Criminal Revision No. 35 of 2025

CNR – WBCS01-000077-2025

**Present: Sri Soumendra Nath Das,
Chief Judge,
City Sessions Court, Calcutta,
JO Code No.WB01132.**

Order No.03 dated 18.03.2025

Today is fixed for hearing on the point of admission.

Ld. Advocate for the revisionist is present by filing hazira.

Now the record is taken up for hearing on the point of admission.

Ld. Advocate for the revisionist submits that the complainant/revisionist had filed a complaint case before the Ld. Chief Judicial Magistrate, Calcutta which was registered as Case No. CS 15456 of 2023 and after taking cognizance Ld. Chief Judicial Magistrate, Calcutta transferred the case to the Court of Ld. 6th Metropolitan Magistrate, Calcutta and after receiving the record Ld. 6th Metropolitan Magistrate, Calcutta without recording solemn affirmation of the complainant issued notice upon the accused person and fixed the next date on 17.04.2023 for appearance/steps.

Ld. Advocate for the revisionist further submits that thereafter on 05.10.2023 Ld. 6th Judicial Magistrate, Calcutta recorded the solemn affirmation of the complainant and issued process against the accused person u/s. 499/500/506/511 I.P.C and the complainant was directed to file requisite at once and fixed the next date on 15.12.2023 for S.R and immediately on that day the revisionist submitted the requisite in the instant matter before the Ld. Trial Court.

Ld. Advocate for the revisionist further submits that on 15.12.2023 the revisionist was present by filing hazira before the Ld. Trial Court along with original postal receipts and postal track report and it is crystal clear from the postal track report that the accused person has refused to receive the summons as intimation served with the remarks unclaimed and thereafter those summons has been returned and/or delivered to the Ld. 6th Metropolitan Magistrate, Calcutta on 16.11.2023, but unfortunately the Ld. 6th Judicial Magistrate, Calcutta has not reflected in its order anything about refusal of summons by the accused person as well as there is no whisper with regard to hazira dated 15.12.2023 as well as postal track report along with original postal receipt in the order dated 15.12.2023, though the hazira dated 15.12.2023 along with original postal receipt as well as postal track report are available in the record.

Ld. Advocate for the revisionist further submits that on 15.02.2024 the revisionist was present in person by filing hazira along with a petition praying for issue warrant of arrest against the accused person, but on that day another case being no. CS-56295 of 2021 was fixed before the Court of the Ld. 6th Metropolitan Magistrate, Calcutta in respect of the same accused person and on that day one absent petition was filed on behalf of the said accused person in connection with the said case being no. CS-56295 of 2021.

Ld. Advocate for the revisionist further submits that on 15.02.2024 at the time of call of the present case being no. CS-15456 of 2023, Ld. Advocate for the accused person stated before the Ld. Trial Court that he intends to receive the summon on behalf of the accused person and the Ld. Trial Court refused the

petition of the complainant praying for issuance of warrant of arrest against the accused person and also directed the complainant to serve the summons upon the accused person by hand to hand without giving the said summons from the record of the Ld. Trial Court.

Ld. Advocate for the revisionist further submits that it is clear from the postal track report that the accused has refused to receive the summons as intimation served with the remarks unclaimed and those unserved summons has been received by the Ld. Trial Court on 16.11.2023.

Ld. Advocate for the revisionist further submits that on 15.05.2024 the revisionist was present in person by filing hazira along with a petition praying for issuance warrant of arrest against the accused person, but the Ld. Trial Court refused to accept the petition of the complainant for issuance of warrant of arrest against the accused person.

Ld. Advocate for the revisionist further submits that on 15.05.2024 the Ld. Advocate for the accused person filed one absent petition on behalf of the accused person with a prayer for adjournment without submitting any vakalatnama on behalf of his client and the Ld. Trial Court allowed the said adjournment petition.

Ld. Advocate for the revisionist further submits that on 27.08.2024 the revisionist was absent due to resolution taken by Bar Association of this Court, though the accused person surrendered on that day by filing bail petition through her Ld. Advocate along with vakalatnama and the Ld. Trial Court allowed the bail prayer of the accused person and directed the complainant to serve copy to the accused person positively on the next date.

Ld. Advocate for the revisionist further submits that on 28.11.2024 the revisionist complied the order dated 27.08.2024 passed by the Ld. Trial Court by submitting an adjournment application along with photo copy of petition of the instant complaint case no. CS-15456 of 2023 along with all annexures through his Ld. Jr. Advocate and Ld. Jr. Advocate moved the same and after hearing Ld. Trial Court kept the said petition along with copy of complaint case including all annexures with the case record and fixed next date on 06.01.2025 for filing show cause by the complainant.

Ld. Advocate for the revisionist further submits that on 06.01.2025 the revisionist filed show cause before the Ld. Trial Court, but after perusing the record the revisionist came to know from the order sheet dated 28.11.2024 that the Ld. Trial Court had reflected in the said order sheet dated 28.11.2024 that Complainant was found absent on that day on repeated calls. No step was taken on behalf of the complainant.

Ld. Advocate for the revisionist further submits that thereafter on searching another case record the revisionist found that the copy of petition dated 28.11.2024 along with photostat copy of complaint case including all annexures had been tagged with another case record being Case no. CS-56295 of 2021 and without considering the above facts and circumstances Ld. Trial Court accepted the show cause dated 06.01.2025 filed by the revisionist imposing cost of Rs.1000/- upon the petitioner/complainant fixing on 15.02.2025 for appearance and supply copy without whispering and/or mentioning in the order sheet dated 06.01.2025 about petition dated 28.11.2024 along with photostat copy of complaint case including all annexures of Case No. CS-15456 of 2023

which was submitted by the revisionist through his Ld. Jr Advocate on 28.11.2024 and the same has cause miscarriage of justice.

Ld. Advocate for the revisionist further submits that after obtaining the certified copy of all orders passed by the Ld. 6th Judicial Magistrate, Calcutta in connection with Case no. 15456 of 2023 the revisionist came to know about the anomaly and/or irregularity and/or discrepancies in the entire order sheet and on 15.01.2025 the revisionist submitted an application along with put up petition for regularizing the entire case record, but the Ld. Trial Court did not hear the revisionist and kept the said application with the case record.

Ld. Advocate for the revisionist further submits that the order dated 06.01.2025 passed by the Ld. Trial Court is bad in law as the petition filed by the revisionist on 28.11.2024 was not reflected in the order sheet of the Ld. Trial Court and such petition was tagged with another case record bearing no. CS-56295 of 2021 and the Ld. Trial Court has imposed cost of Rs.1000/- upon the revisionist to be paid to the DLSA, Kolkata has caused grave miscarriage of justice and therefore such act of the Ld. Trial Court is unsustainable in the eye of law and so he prays for admission of the same.

Heard the Ld. Advocate for the revisionist.

Perused the order dated 06.01.2025 passed by the Ld. Metropolitan Magistrate, 6th Court, Kolkata in connection with Case No. CS-15456 of 2023 and from the record it reveals that Ld. Magistrate accepted the show cause filed by the complainant on condition to appear on each and every date in person with cost of Rs.1000/- to D.L.S.A.

Considering all the above facts this Court finds that the grounds raised by the Ld. Advocate for the revisionist are required to be adjudicated upon in the instant revision after perusal of the LCR.

Thus, the Criminal Revision is admitted.

Issue notice upon the Opposite Party No.2/State through Court only and the OP No.1 in both ways i.e. through Court and the registered post with A.D.

Requisites at once.

At this stage, Ld. Advocate for the revisionist submits that one petition has been filed for staying of further proceedings of the Complaint Case being no. CS/15456 of 2023 pending before the Ld. M.M. 6th Court, Calcutta.

Heard the Ld. Advocate for the revisionist.

As the revision has been admitted by this Court, if the proceedings of the Ld. Court below is not stayed then the revision will become infructuous.

Considering this fact, further proceedings of the Complaint Case being no. CS/15456 of 2023 pending before the Ld. M.M. 6th Court, Calcutta be stayed till next date.

To 07.05.2025 for S.R., A.D and appearance.

Let a copy of this order be sent to Ld. Court below for information.

Dictated & corrected by me

Sd/-

Chief Judge,
City Sessions Court, Calcutta.

Sd/-

Chief Judge,
City Sessions Court, Calcutta.