

**IN THE COURT OF ADDITIONAL DISTRICT & SESSIONS JUDGE,
BENCH-II, CITY SESSIONS COURT, CALCUTTA.**

Koustuv Mukhopadhyay (in-charge)
Additional District & Sessions Judge,
Bench-II, City Sessions Court, Bichar Bhavan, Calcutta.
J. O. CODE NO. WB-01059

Criminal Revision No. 78 of 2025
CNR No. WBCS01-000177-2025

Pritam Kundu.....Revisionist

Vs

The State of West Bengal and Another.....Opposite Parties

Arising out of the judgment and order dated 10.02.2025 passed by Ld. Senior Municipal Magistrate, Calcutta in connection with G.R. Case No.178 of 2021 u/s 401(A) of KMC Act.

Date of delivery of Judgment : 6th day of March, 2026

JUDGMENT

From the revisional application, it appears that an allegation of unauthorized construction was made in premises No. 75/1/1, Mahatma Gandhi Road, Ward No. 40, KMC, Muchipara, Kolkata-700009.

It further appears that the case against the alleged unauthorized construction was initiated based on a complaint filed by the revisionist, Pritam Kundu, against Arijit Chatterjee. The revisionist resides at 11/1, Pratap Chatterjee Lane, PS Muchipara, Kolkata-700012.

The revisionist asserts that he is an interested witness in this case, being a direct victim of the alleged unauthorized construction.

On the basis of his complaint, proceedings were initiated before the Court of the Ld. Senior Municipal Magistrate, Calcutta, which culminated in the submission of a charge sheet against Arijit Chatterjee.

According to the revisionist, summons were not served at his residential address but at the premises where the unauthorized construction was occurring.

He further submitted that the Ld. Magistrate erroneously held that the summons were duly served and proceeded with the trial, expunging his evidence.

Subsequently, his petition under Section 311 of the Cr.P.C was also rejected by the Ld. Trial Magistrate, which he contends was erroneous.

The revisionist asserts that for the ends of justice, he must be heard as a prosecution witness, as he has relevant testimony.

He submits that failure to allow his evidence would prejudice him, as he is the direct victim of the alleged unauthorized construction.

He therefore prays for necessary directions to the Ld. Senior Municipal Magistrate to provide him an opportunity to adduce evidence as a prosecution witness.

On the other hand, the Ld. Advocate for the State has no objection. The Ld. Advocate for the private respondent, the accused in the original GR case, submitted that the revisionist was given ample opportunity to appear as a prosecution witness but failed to do so due to non-service of summons at his correct address. At a later stage, he filed a petition under Section 311 of Cr.P.C, which was rightly rejected by the Ld. Trial Magistrate.

The Ld. Advocate contends that allowing the revisionist to depose at this stage would amount to reopening the prosecution case.

Considering all aspects, it is noted that in cases of unauthorized construction, complaints are often filed by officials, while the actual victim remains merely a prosecution witness and is not recognized as the de-facto complainant.

DECISION WITH REASONS

I have carefully considered the evidence on record.

From the materials available, it appears that the revisionist is, in reality, the de-facto complainant, as the proceedings were initiated based on his insistence, even though the formal complaint was filed by an official of KMC. Justice cannot be served properly unless the victim is heard.

The revisionist prima facie appears to be the direct victim of the alleged unauthorized construction.

Accordingly, I hold that he has a right to be heard, and the most appropriate way to ensure this is by allowing him an opportunity to adduce evidence.

While the revisionist may have been negligent earlier, granting him one opportunity to present his evidence will not prejudice any party. Conversely, denying him the chance to testify would cause prejudice to him.

In the interest of justice, the revisionist must be given one opportunity to adduce evidence as a prosecution witness.

Court fees paid is correct.

Hence, it is

ORDERED

that the instant criminal revision be and the same is allowed on contest and on merit.

The impugned order dated 10.02.2025 passed by the Ld. Senior Municipal Magistrate, Calcutta, is hereby set aside.

The Ld. Senior Municipal Magistrate, Calcutta, is directed to issue summons to the revisionist at his correct address: 11/1, Pratap Chatterjee Lane, PS Muchipara, Kolkata-700012.

The Ld. Trial Court shall proceed with the case after providing the revisionist one opportunity to appear as a prosecution witness. Only one chance will be given.

The order of stay, if any, stands vacated.

The Criminal Revision is thus disposed of.

Let a copy of this judgment, along with the TCR, be sent to the Ld. Senior Municipal Magistrate, Calcutta, for information and necessary action.

Dictated & corrected by me.

Sd/-

(Koustuv Mukhopadhyay)
(WB-01059)
Additional District & Sessions Judge,
Bench-II,
City Sessions Court, Calcutta.
(In-Charge)

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