

In the Court Ld. ACJM, Kurseong.

Present : Md. Ruknuddin,
ACJM, Kurseong. (J.O. Code – WB00978)

Ref. Case No.: GR 04 of 2023 (CIS 265 of 2024)
CNR NoWBDJ050002982023
State Vs. Bijesh Chakraborty

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 CrPC 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.

Dict. & corrted.

by me :

ACJM, Kurseong.

(Md. Ruknuddin)
ACJM, Kurseong.