

In the Court of the Addl. District & Sessions Judge,
Alipurduar

PRESENT : Smt. Prajna Gargi
(Bhattacharya) Hussain

(J.O Code NO. WB00817)

CRIMINAL REVISION NO. : 29 of 2022

CNR No. WBNJP050005962022-
0400010001

Debeswar Roy
.....Petitioner

Vs.

1.The State of West Bengal

**2.Chief Manager. Power Grid Corporation of
India Ltd.**

.....Opposite Party

Smt Indrani Roy

.....Learned Advocate for Revisionist

Smt Alpana Das

.....Learned Advocate for Opposite Party

**Date of delivery of Judgment : On this
the 6th day of June 2026**

-: JUDGMENT:-**1. PROLOGUE :-**

1.1 The Revisionist has filed this Criminal Revision being aggrieved and dissatisfied by the Order dated 29.04.2022 passed by the SDEM at Alipurduar, in connection with Petition No. 81 of 2022.

2. Revisionist's case:-

2.1 The Revisionist has stated in his revisional application that without serving notice to show-cause to the revisionist the respondent No. 2 being the Chief Manager, Power Grid Corporation Ltd., 800K.V HVDC, Sub-station (TLM) started a suo motto case against the revisionist through his agencies. As a result of such suo motto case, a proceeding u/s 133 of CrPC was drawn against the revisionist.

2.2 The revisionist filed a petition u/s 144 of CrPC being Petition No. 466 of 2021 on 04.04.2022 before the Ld SDEM, Alipurduar and the Ld SDEM, Alipurduar ordered the Chief Manager, Power Grid Corporation to try and amicably settled the matter with revisionist and if possible to cut down trees as per existing rule of the Forest Department and consult with Forest Authority if required.

2.3 The respondent appeared in the case and the order dated 04.04.2022 was within the knowledge of the respondent and suppressing the same the present application u/s 133 of Cr P C was filed by the respondent.

2.4 Being aggrieved by the order and dissatisfied with same, the Revisionist moved the Criminal Revision.

3. CASE OF THE OPPOSITE PARTIES

3.1 The Opposite Party nos. 1 and 2 appeared and contested the Application .

3.2 At the hearing stage the respondent did not take any steps.

4. GROUNDS:

There are several grounds on which the Order is challenged.

The pertinent grounds are as follows :

- a) The order passed by Ld SDEM, Alipurduar on and from very inception of receiving the petition and the order dated 29.04.2022 is illegal and not sustainable in law or fact.
- b) No notice was issued to the appellant.
- c) Ld SDEM, Alipurduar erroneously passed direction to cut down the trees within 3 days of receipt of the order.
- d) The Learned SDEM, Alipurduar has failed to hear both the sides.
- e) The Learned SDEM, Alipurduar failed to take evidence before passing such order.

5. POINTS FOR DETERMINATION

After hearing both the sides the following are considered as points necessary for determination for the dispute in this Revision:

- i) Is the order dated 29.04.2022 passed by the Learned SDEM, Alipurduar in petition No. 81 of 2022 passed erroneously without proper consideration of facts and material?
- ii) Is the said order liable to be set aside?

5.DECISION WITH REASONS

5.1 In the present case the Learned SDEM, Alipurduar has received a petition on 29.04.2022 and drew up a proceeding u/s 133 of Cr P C on the same date.

5.2 It is pertinent to mention here that the District Magistrate or SDEM or Executive Magistrate empowered in this behalf can pass such order on receiving a police report upon taking evidence if any, as he thinks fit to remove any unlawful obstruction or nuisance.

5.3 It is also necessary for the Magistrate to issues a notice or direct filing of a show cause before making any such order, absolute. In this case it appears that no opportunity to show-cause was given to the revisionist. It is also appear that the mechanical order was passed on the same date when the application made without any police report. It further appears that the order was made absolute with direction on IC, Kumargram PS to serve the order upon the OP, i.e., the revisionist.

5.4 I further find that on 04.04.2022 in respect of a petition u/s 144 of Cr P C the Ld Magistrate had directed the respondent and the petitioner to settle the matter amicably. Within a short span between 04.04.2022 to 29.04.2022 without any attempt to settle the matter, the respondent No. 2 preferred this application.

5.5 It also appears from the impugned order that the respondent No. 2 did not bring it to notice of the Ld SDEM, Alipurduar that there was an order between the parties on 04.04.2022 which was relevant to the present matter.

5.6. It appears that the respondent No. 2 kept the Learned SDEM, Alipurduar in dark as to actual fact in this case. The impugned order has failed to take into account the case of both sides as well as the its earlier order. There has also been suppression of material facts by the respondent.

5.7. The impugned order is liable to be set aside.

6. ORDER

6.1 Accordingly, the Criminal Revision 29 of 2022 is allowed on merit.

6.2 The Order dated 29.04.2022 passed by the the Learned SDEM, Alipurduar in Petition no. 81 of 2022 be and the same is hereby set aside.

6.3 Let a copy of this order be sent to the Learned SDEM, Alipurduar and another copy be sent to IC, Kumargram PS for their respective information.

Dictated and Corrected by me.

A.S.J.
Addl. Sessions Judge,
Alipurduar.