

IN THE COURT OF ADDITIONAL SESSIONS JUDGE
1st COURT, PASCHIM MEDINIPUR.

Present : **Shri Uday Rana**
 (J. Code - WB00995)
 Additional Sessions Judge,
 1st Court, Paschim Medinipur.

Criminal Revision No. 384/2024
(CIS No. 384/2024)
CNR No. WBWM010045922024

1. Kaji Mohiuddin Ahamed

..... Petitioner

-Vs-

1. The State of West Bengal

..... Respondent

Arising out of the impugned order dated 26-04-2024 under section 107 Cr.P.C passed by the Ld. Executive Magistrate, Medinipur in connection with NCR No. 283/2024 N.G.R No. 699/2024.

Judgement dated : 16th day of July, 2025.

JUDGEMENT

1. This criminal revision has been filed against the impugned order passed *under the said provision* by the concerned Learned Executive Magistrate. The revision was initially filed before the Sessions Judge, Paschim Medinipur, and later transferred to this Court. As per the petitioners, the proceedings were illegally initiated by the Magistrate based on a police report.
2. Being aggrieved and dissatisfied with the impugned order, the present petitioners have preferred this criminal revision on the following **grounds-**
 - 2.1. *For that the order is absolute bad in law causing prejudice to petitioners.*
 - 2.2. *For that the Ld. Magistrate ought to make the order in writing himself setting forth the substance of the information received.*
 - 2.3. *For that the impugned order passed by the Ld. Court below did not reflect the definite tangible facts which is mandatory as per provision of Section 111 Cr.P.C.*
 - 2.4. *For that the impugned order passed by the Ld. Magistrate is quite improper and out of jurisdiction.*

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2.5. *For that the other points would be placed at the time of hearing.*

3. **POINTS FOR DETERMINATION**

3.1. Whether the impugned order passed by the said Ld. Executive Magistrate suffers from illegality, impropriety or erroneousness ?

FINDINGS

4. The Hon'ble Supreme Court has consistently held that criminal revisions must be decided on merits, even if parties or their counsel are absent. In *Madan Lal Kapoor v. Rajiv Thapar*, it was reaffirmed that criminal matters cannot be dismissed for default. This principle was upheld in *Bani Singh v. State of U.P.*, where the Court overruled earlier decisions allowing dismissal for non-appearance. The same rule applies to revisions—courts must decide them on merits, not dismiss them for default.
5. From the record, it appears that notice was issued to the opposite parties via Order No. 1. However, no one appeared on their behalf except the Learned Public Prosecutor (Ld. P.P.). The Ld. P.P. submitted that the impugned order contains no illegality. All submissions were duly considered, along with the case record. Parties have no inherent right to be heard in revision proceedings. However, the Court may hear any party at its discretion. The Court's primary duty is to ensure the legality, correctness, and propriety of the order. In this case, the Court finds that non-hearing of the opposite party causes no prejudice.
6. In *Rabin Roy Chowdhury v. State of West Bengal* (1998 CRLJ 1699 Cal), the Hon'ble High Court clarified the scope of revisional jurisdiction. It held that both the High Court and the Sessions Judge can revise orders of inferior criminal courts. An Executive Magistrate is considered an inferior criminal court under this section. Proceedings under the said section fall within the revisional jurisdiction. If illegality is alleged, the revisional court must examine the order's correctness, legality, and propriety. The impugned order contained in the show cause notice, as served to the revisionist, was made available on the record by the revisionist at the time of filing, and this court is concerned about its legality. Criminal revision must be disposed of on merit, even if parties are absent. Thus heard the present revisional application and perused the materials on case record.

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Considered.

7. After perusing the order on show-cause notice as made available on record, it is manifestly clear that the concerned Ld. Executive Magistrate, has passed a vague and general order nor does it disclose any details directing affecting the informant concerned and there is also lack of proper materials with respect to the specific conduct of the non-revisionist which would prove that there was every likelihood of commission of breach of peace.
8. Again upon going by the nature of dispute it reveals from the show cause notice that it does not include within the nature and scope of breach of **public peace** and **public tranquility** and it is concerned between private individuals and not disturbing the ordinary life and routine of the public. *In Section 107 of the Criminal Procedure Code (CrPC), "public tranquility" refers to the state of peace and order within a community. It encompasses the maintenance of public peace and the absence of disturbances or conflicts that disrupt the ordinary life and routine of the public.*
9. In view of the above observations, this Court is of the view that impugned order is illegal, incorrect and improper in the eye of law and it is liable to set aside.

Court fee paid is correct

Hence it is,

ORDERED

The impugned order passed by the concerned Ld. Executive Magistrate, in the above noted case is hereby set aside.

This criminal revision is succeed without cost.

Let the copy of this order along with TCR (Trial Court Record) be sent to the concerned court for information and necessary action.

Upload the judgment and order on the official website (C.I.S) accordingly for information of the parties.

Dictated & Corrected by me.

Additional Sessions Judge,
1st Court, Paschim Medinipur.

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