

04.08.2026

Ct. No.2

D/L 61

Mujahid

CRR 2720 of 2026

With

CRAN 1 of 2026

Kirshna Damani

Vs.

Union of India & Anr.

Mr. Nalin Kohli, Sr. Adv.
Mr. Sabhyasachi Banerji, Sr. Adv.
Mr. Ayan Bhattacharyya, Sr. Adv.
Mr. Debartha Chakraorty
Mr. Anshuman
Mr. Aripit Choudhury
Ms. Siddhi Agarwal
Mr. Sagar Dutta

...for the petitioner

Mr. Zoheb Hossain, Sr. Adv.
Mr. Adil Rashid

...for E.D.

Mr. Sandipan Ganguly, Sr. Adv.
Mr. S. Choudhruy
Mr. S. Das
Mr. Deep Basak
Mr. Amitava Mitra
Mr. N. Agarwal

...for the intervenor

1. Present petition has been filed by the petitioner challenging the order no.1 dated 11th February, 2026 vide which the learned Chief Judge, City Sessions Court, Calcutta issued the notice to the petitioner. The notice was issued, on complaint bearing ECIR No. ECIR/KLZO-II/08/2024 filed under Section 44/45 of the Prevention of Money Laundering Act, 2022.

2. Mr. Nalin Kohli, learned senior counsel for the petitioner has challenged the impugned order on the ground that the

learned Chief Judge while issuing the notice to the petitioner for hearing on the point of cognizance has given his prima facie opinion on the allegations made in the complaint. Learned senior counsel submits that such a prima facie opinion having been given by the learned Chief Judge, City Sessions Court, Calcutta has seriously prejudiced the petitioner. Learned senior counsel submits that there are multifarious litigations concerning the petitioner and the other parties and such a prima facie opinion given by the learned Chief Judge, City Sessions Court, Calcutta at nascent stage of the complainant is totally erroneous and may cause real hardship to the petitioner. Learned senior counsel submits that since in the para-10 of the impugned order, learned Chief Judge has committed jurisdictional error the present order is liable to be set aside.

3. Mr. Zoheb Hossain, learned senior counsel appearing for the E.D. has fairly submitted that at the stage of pre-cognizance the notice is to be issued by the learned Chief Judge for giving the proposed accused an opportunity of being heard. Learned senior counsel submits that in the impugned order, learned Chief Judge has merely given the prima facie view on the allegations made in the complaint, so as to satisfy itself that the complaint filed by the E.D. is in accordance with law for the purpose of issuance of notice. Learned senior counsel has further submitted that learned Chief Judge being conscious of legal position has specifically mentioned the petitioner as “proposed accused”.

4. An intervening application has been filed by South Point Education Society, Mr. Sandipan Ganguly, learned senior counsel for the applicant/intervenor submits that he has filed the application in the capacity of a victim. However, learned senior counsel submits that if the court proposes to dispose of the present petition, the intervenor would not press the application at this stage without prejudice to the contentions raised in the application and the same may be kept open.

5. Mr. Nalin Kohli, learned senior counsel Mr. Ayan Bhattacharyya, learned senior counsel and Mr. S. Banerjee, senior advocate have refuted that South Point Education Society is a victim in any manner.

6. The Court has considered the submissions and perused the record carefully. Sections 223 of the BNSS, 2023, which falls in Chapter-XVI of the BNSS, 2023 provides the procedure in the case of private complaint having been filed. Proviso to Section 223 sub-section (1) has introduced a new mechanism, whereby a notice is required to be issued to the proposed accused before taking cognizance on the complaint. The legislature in its wisdom has introduced this mechanism, so as to ensure that the innocent person may not be victimized or suffer in the case of the false and frivolous complaint is being filed.

7. In Kushal Kumar Agarwal vs. Directorate of Enforcement, 2025 SCC OnLine SC 1221 and Parvinder Singh vs. Directorate of Enforcement, 2026 SCC OnLine SC 903, it has been categorically held that proviso to Section 233(1) is equally

applicable in the complaint filed under Prevention of Money Laundering Act. The Co-ordinate Bench of this Court also in Kaberi Dey & Ors. vs. Sourav Bhattacharjee, 2025 SCC OnLine Cal 5928 after discussing the entire procedure has inter alia held as under:-

“29. Therefore, the procedure that needs to be followed on receipt of a complaint, in view of section 223 and concerned relevant provisions under the BNSS, would be as follows:—

(a) Once, a complaint is filed, after registering the same, the court has to issue a notice to the proposed accused person/persons;

(b) Such notice may be served by way of registered post with acknowledgement due and/or through electronic mode under the scheme of BNSS as envisaged in chapter VI-A.

(c) In such notice, it has to be mandatorily mentioned that the purpose of such notice is to provide a right of hearing at a pre-cognizance stage. The notice must also incorporate that the proposed accused may either appear by person or through his lawyer. The notice must also indicate that the proposed accused may avail of the facilities of legal aid in terms of the provisions under the Legal Services Authorities Act, 1987, if he so qualifies;

(d) Once in terms of such notice, an accused appears in person or through his lawyer, pre-cognizance hearing has to be conducted. The result of such hearing has to be communicated to both the parties.

(e) In case despite hearing, the learned Magistrate proposes to take cognizance, the accused will have no further participation in the proceeding till issuance of process under section 227 of the BNSS.”

8. Thus, bare perusal of Section 223(1) of the BNSS, 2023 makes it clear that at the stage of issuing notice at the pre-cognizance stage, the court shall avoid to express any opinion on the allegations made in the complaint. There cannot be any doubt to the proposition that if any such opinion is expressed by the learned trial court, it may cause confusion later on in the

proceedings. The court is required to frame its opinion only after hearing the 'proposed accused' at the pre-cognizance stage.

9. The reading of para-10 of the impugned order may create an impression that the learned Chief Judge has formed prima facie opinion on the allegations made in the complaint filed by the E.D. At this stage, the law only provides for issuance of notice to the 'proposed accused'. Thus, in order to avoid any confusion, the impugned order is modified to the extent that para-10 of the same stands deleted and the impugned order shall be read *de hors* para-10 of the impugned order. The learned Chief Judge shall afford an opportunity of being heard to the petitioner as provided under the law without, at all, being influenced by the impugned order before taking cognizance.

10. In view of the above observation, the criminal revisional application stands disposed of and the connected application is also disposed of.

11. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Dinesh Kumar Sharma, J.)