

In the High Court at Calcutta  
(Criminal Revisional Jurisdiction)  
Appellate side

14.10.2024  
17/18  
Ct-3  
(RD)

**CRR 4496 of 2024**

**SAF Ferminon Limited**  
**Vs.**  
**The State of West Bengal & Anr.**

**With**  
**CRR 4497 of 2024**

**Atlantis Intelligence Limited**  
**Vs.**  
**The State of West Bengal & Anr.**

Mr. Sabyasachi Banerjee, Adv.  
Mr. Bikram Mitra, Adv.  
.... For the Petitioner

Mr. Sourav Chatterjee, Adv.  
Mr. Abhinav Rakshit, Adv.  
.... For the K.P.C. Medical  
College/Defacto

Mr. Debasis Roy, P.P.  
Mr. Arijit Ganguly, Adv.  
Ms. Srimoyee Roy, Adv.

... For the State

**1.** Identical issue involved in both the revision applications compels me to pass this common order.

**2.** Challenge in this revision application under Section 482 of the Code of the Criminal Procedure, 1973 (for short Cr.P.C) read with Section 397 & 401 of CrPC (under Section 528 of BNSS read with Section 438/442 of BNSS), is the order dated 19.09.2024, in connection with Jadavpur Police Station case no. DD case 1124 of 2024 dated 29.06.2024, wherein Ld. Chief Judicial

Magistrate (for short CJM), Alipore passed the following two separate orders in connection with CRR 4496 of 2024 & CRR 4497 of 2024 respectively:

*“Hence the Chief Manager/Branch Manager is requested to release the amount of Rs. 1,01,00,000/- freezed in A/C No. 9220300455414, AXIS BANK, to transfer the same to the de-facto complainant/petitioner company i.e. KPC Medical College Hospital vide bank A/C. No. 50200078970073, of HDFC BANK, DESHOPRIYA PARK BRANCH, subject to furnishing a bond of equivalent amount with usual conditions.*

*Hence the Chief Manager/Branch Manager is requested to release the amount of Rs. 1,45,00,000/- freezed in A/C No. 922030045456116, AXIS BANK, to transfer the same to the de-facto complainant/petitioner company i.e. KPC Medical College Hospital vide bank A/C. No. 50200078970073, of HDFC BANK, DESHOPRIYA PARK BRANCH, subject to furnishing a bond of equivalent amount with usual conditions.”*

**3.** Ld. Counsel, Mr. Sabyasachi Banerjee, appearing on behalf of the petitioners in connection with both the revision applications has submitted that the petitioners are not connected to the alleged crime and they are not FIR named accused. But, the impugned order was passed without hearing the petitioners either by the Court or by the Investigating Officer.

**4.** Mr. Banerjee has further submitted that there were agreements between the petitioners and Rajiv Ghosh regarding sale of Rolls Royce Phantom III, 1937 and for which both the petitioners/companies advanced a huge amount of money to said Rajiv Gosh. Delivery of the car to the petitioners could not completed and Rajiv Ghosh started refunding the advance money to the

petitioners/companies in various tranches.

**5.** Mr. Banerjee has further contended that Rajiv Gosh informed issuing letters dated 12.12.2023 to the both the petitioners/companies stating that he wanted to refund full amount which would be paying by one K.P.C. Medical College and Hospitals/ opposite party no. 2 herein on behalf of Rajiv Gosh.

**6.** Mr. Banerjee did not dispute that the amount in question was transferred by opposite party no. 2 to the accounts of both the petitioners. But, Mr. Banerjee has contended, that the defacto complainant/ opposite party no. 2 herein has filed one complaint before the Court of Ld. CJM against said Rajiv Gosh and three others under Section 420/409/467/468/471/120B of the Indian Penal Code, 1816 which was registered as Jadavpur Police Station D.D case no. 113 dated 29.06.2024. During investigation both the aforesaid accounts of the petitioners were frozen to the extent of amount of Rs.1,01,00,000/- in connection with account no. 9220300455414 and to the extent to the amount of Rs. 1,45,00,000/- according to lien instruction.

**7.** Mr. Banerjee has tried to make this Court understand that according to the intimation of Rajiv Gosh both the petitioners/companies allowed the transfer of amounts in question to their respective accounts in the AXIS BANK.

**8.** By the impugned orders dated 19.09.2024, according to Mr. Banerjee, Ld. CJM, Alipore requested the Chief Manager/Branch Manager of the AXIS BANK to transfer the freezed amount from both the accounts of the petitioners to the account of K.P.C Medical College and Hospitals/ opposite

party no. 2 herein, of HDFC BANK, Deshopriya Park Branch, on the basis of the report submitted by the I.O before the Court.

**9.** Mr. Banerjee has submitted that the aforesaid impugned order was passed by the Ld. CJM Alipore without giving any opportunity of hearing to the petitioners. Accordingly Mr. Banerjee has prayed for quashing of the order and also to pass an order directing HDFC Bank, Deshopriya Park Branch, to transfer the amount in question to the accounts of the petitioners.

**10.** Ld. Counsel, Mr. Sourav Chatterjee, appearing on behalf of the K.P.C Medical College/opposite party no. 2 herein in connection with both the revision applications has contended that the opposite party no. 2 intends to contest the instant revision application and no order as sought for can be passed at this stage without hearing of the K.P.C Medical College/opposite party no. 2 herein. In addition, Mr. Chatterjee has pointed out that the petitioners already filed an application for recalling the impugned order before the Ld. CJM, Alipore and that application is still pending.

**11.** Mr. Debasis Roy, Ld. Public Prosecutor, appearing on behalf of the State in connection with both the revision applications, has submitted that necessary direction may be given to the Ld. CJM to take up the application for recalling the impugned order and to dispose of the instant revision applications accordingly.

**12.** Regard being had to the rival contentions of the parties to this case as well as having gone through the all relevant documents of the applications I am of the

opinion that an order directing transfer of the amount in question to the account of the petitioners cannot be promulgated at this stage without giving an opportunity of hearing to the opposite parties while transfer of the amount from the accounts of the petitioners to the account of the opposite party no. 2 is the only issue of this revision applications.

**13.** In the aforesaid view of the matter, petitioners are directed to serve notice along with copy of the revision applications with all annexure upon the opposite party no. 2 through register post with AD and also to serve notice upon the opposite party no. 1/ State through public Prosecutor of this Court and to file affidavit of service on the returnable date.

**14.** Let the matter be placed before the Regular Bench.

**15.** All parties to this application shall act on the server copy of this order downloaded from the official website of this Court.

**16.** Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

**(Bibhas Ranjan De)**