

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

The Hon'ble **JUSTICE SUVRA GHOSH**

**CAN No. 1 of 2025
&
CAN No. 2 of 2025
With
WPA No. 28933 of 2025**

**Arnab Paul
v/s.
The State of West Bengal & Ors.**

For the Petitioner:	Mr. Ayan Bhattacharjee, Adv. Mr. Gourav Ghosh, Adv. Mr. Shounak Mondal, Adv.
For the State :	Mr. Swapan Kumar Dutta, Adv. Mr. Rajat Kumar Dutta, Adv. Ms. Tithi Paul, Adv.
For the Applicant:	Mr. Abhratosh Majumder, Adv. Mr. Sourav Chatterjee, Adv. Mr. Sayan Sinha, Adv. Mr. Adil Naser, Adv.
For the Respondent No. 6:	Mr. Ranajit Chowdhury, Adv. Ms. Sampurna Saha, Adv.
For the CBI:	Mr. Amajit De, Adv.
Hearing concluded on:	02.02.2026
Judgment delivered on:	06.02.2026

SUVRA GHOSH, J. :-

1. In both the applications, the applicants seek to be added as parties to the writ petition and claim to be proper and necessary parties herein and also that any order passed in the writ petition shall affect their rights.
2. Learned counsel for the applicants takes this Court to paragraphs 7 & 8 of the writ petition which read as follows:-

“(7) The petitioner submits that as this investigation also requires looking into the complicity of State’s police officials mere registration of FIR and investigation by the State Police would not grant sufficient relief to the Petitioner as without any iota of doubt, there would be apprehension and presumption of bias. The apprehension and the presumption of bias is also fortified by the reason that Respondent No. 3 despite receiving complaint from the Petitioner sat tight over the matter but on the other hand, the Bhowanipore Police Station has been activated at the instance of the high ranking officials of the Police Authorities who are in collusion with Utpal Chowdhury and thereby, called up the Petitioner to appear before him without issuing any formal notice. Thereafter when the Petitioner visited the police station, he was shown a letter/complaint submitted by one A. Dutta, who is the nephew of Utpal Chowdhury and resides at premises owned by Utpal Chowdhury. The said complaint has been filed inter alia on the basis of a counterfeit money receipt which contains forged signatures of the petitioner. The Petitioner tried to lodge complaint against such counterfeit money receipt before the Bhowanipore Police but the same could not be done for which the petitioner wrote an

email on 16.12.2025 and also sent a letter through Speed Post on 16.12.2025 requesting the police authorities to register FIR.

(8) The Petitioner submits that any complaint which is registered at Bhowanipore Police Station at the instance of Utpal Chowdhury would be nothing but a counterblast to the complaint dated 27.11.2025 and as such the same deserves to be quashed.”

3. Learned counsel submits that the writ petition suggests that complaint has been lodged against the petitioner by Anirban Dutta in collusion with Utpal Chowdhury, both of whom are applicants in the applications. Referring to Sections 156(3) and 200 of the Code of Criminal Procedure vis-a-vis Sections 175(3) and 223(1) of the BNSS, learned counsel submits that though there may be no scope of audi alteram partem for the accused at the initiation of or during investigation in the old Code, the proviso to Sections 223(1) of the BNSS states that no cognizance of an offence shall be taken by the Magistrate without giving the accused an opportunity of being heard, meaning thereby, that the accused has a right of audience in the criminal proceedings initiated against him. Also, paragraph 8 of the writ petition seeks quashing of the FIR lodged against the petitioner by the applicant in CAN 1 of 2025. The applicant in CAN 1 of 2025 being the complainant who has lodged FIR against the petitioner and the applicants in CAN 2 of 2025 being prospective accused in the complaint lodged by the petitioner, are necessary and proper parties in the writ petition and ought to be granted an opportunity of hearing when the writ petition is considered.

4. Learned counsel has placed reliance in the authority in Ramachandraiah and Another v/s. M. Manjulla and Others reported in 2025 Supreme Court Cases OnLine SC 893, judgment of the Hon'ble Supreme Court delivered on 4th August, 2023 in Special Leave to Appeal (Crl.) No. 8889 of 2023 and an order passed by an Hon'ble Division Bench of this Court on 5th July, 2023 in M.A.T. 1180 of 2023 in support of his contention.
5. Learned counsels for the State and the CBI do not oppose the prayer of the applicants.
6. Opposing the applications, learned counsel for the petitioner submits that in the judgments referred to by the applicants in Special Leave to Appeal (Crl.) No. 8889 of 2023 and M.A.T. 1180 of 2023, the accused were already parties to the writ petition for which they deserved the right of hearing. Section 223(1) of the BNSS deals with complaints to Magistrate which is not the case herein. The said provision talks about cognizance of an offence by a Magistrate upon giving the accused an opportunity of being heard.
7. In the writ petition, there is no prayer for quashing of the FIR lodged by the applicant therein. Prayer (h) of the writ petition seeking protection from coercive steps against the petitioner and his family members in connection with the complaint lodged against them is also not pressed by the petitioner. The applicants, therefore, are not necessary or proper parties in the petition.
8. I have considered the rival contention of the parties.
9. It is a fact that Anirban Dutta, the applicant in CAN 1 of 2025 lodged FIR against the petitioner pursuant to which investigation has commenced. In

the writ petition, the petitioner has not sought quashing of the FIR and has not pressed his prayer for protecting him from any coercive step in connection with the said FIR. The writ petition seeks investigation with regard to the complaint lodged by the petitioner against Utpal Chowdhury, Dipshika Chowdhury (applicants in CAN 2 of 2025) and Others.

10. In a catena of judgments including the authority relied upon by the applicants, the Hon'ble Supreme Court has observed that the accused has no right of hearing as regards the manner and method of investigation and save under certain exceptions, has no participation as a matter of right during the course of the investigation of a case instituted on a police report till the investigation culminates in filing of a final report under Section 173(2) of the Cr.P.C. Even in a proceeding instituted otherwise than on a police report, till the process is issued under Section 204 of the Code and in cases where cognizance of an offence is taken on a complaint notwithstanding that the said offence is triable by a Magistrate or exclusively by a Court of Sessions, the accused has no right to participate till the process is issued. The matter of entrusting investigation to a particular agency is basically at the discretion of the Court.

11. It shall be useful to reproduce Section 175(3) and Section 223(1) of the BNSS.

“175(3) - Any Magistrate empowered under Section 210 may, after considering the application supported by an affidavit made under subsection (4) of section 173, and after making such inquiry as he thinks

necessary and submission made in this regard by the police officer, order such an investigation as above-mentioned.

223- Examination of complainant- (1) A Magistrate having jurisdiction while taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate:

Provided that no cognizance of an offence shall be taken by the Magistrate without giving the accused an opportunity of being heard:”

12. Section 175(3) does not grant an opportunity to the accused of being heard.
13. Section 223(1) deals with complaints to Magistrate and not complaint before the police officer and is not applicable in the present case. The applicants in CAN 2 of 2025 being the prospective accused in the complaint lodged by the petitioner are not entitled to demand a right of audience in the petition.
14. It is a fact that the applicant in CAN 1 of 2025 is the complainant in the FIR lodged against the petitioner. However, since the petitioner does not seek quashing of the said FIR and does not intend to press his prayer in connection thereto, this applicant cannot be termed as a necessary or proper party in the writ petition.
15. In the said backdrop, this Court is of the view that both the applications are devoid of any merit and are liable to be dismissed.
16. CAN 1 of 2025 and CAN 2 of 2025 are accordingly dismissed.

17. There shall however be no order as to costs.
18. Urgent certified website photocopies of this judgment, if applied for, be supplied to the parties expeditiously on compliance with the usual formalities.

Re: - WPA 28933 of 2025

Let the matter appear under the heading "Motion" on 26th February, 2026.

(Suvra Ghosh, J)