



2025:CHC-AS:1825

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

Present:
The Hon'ble Justice Debangsu Basak

**C.R.R. 1265 of 2025
With
CRAN 1 of 2025
CRAN 2 of 2025**

**M/s. Vinayak Infrastructure & Anr.
Vs.
Kotak Mahindra Bank Limited**

For the petitioners : Md. Abdur Rakib
Mr. Mojahid Mehedi

Heard and Judgment on : September 17, 2025

Debangsu Basak, J.:-

1. Affidavit of service filed in Court be taken on record.
2. None appears for the respondents.
3. The revisional application is directed against an order dated February 4, 2025.
4. By the impugned order, learned Judicial Magistrate took cognizance of the complaint. Learned Judicial Magistrate recorded that the suspect appeared before the Court on the last date.
5. Learned Judicial Magistrate held that the notice was served.



6. Learned advocate appearing for the petitioners draws the attention of the Court to Section 223 of the B.N.S.S., 2023 and in particular to the proviso to Sub-Section (1) thereof. He submits that the petitioners as the suspects were not heard by the learned Judicial Magistrate prior to cognizance being taken.
7. Petitioners entered appearance in the complaint case. Petitioners were aware that February 4, 2025 was fixed for pre-cognizance hearing. Petitioners, in fact, appeared before the learned Judicial Magistrate on the previous date. Petitioners, however, chose not to appear on February 4, 2025.
8. The first proviso to Section 223 of the B.N.S.S., 2023 requires that no cognizance of an offence shall be taken by the Magistrate without giving the accused an opportunity of being heard.
9. In the facts and circumstances of the present case, the petitioners were given an opportunity of being heard by the learned Judicial Magistrate. Notice of the proceedings was served. The petitioners appeared on the previous date and chose not to appear on the date when the impugned order was passed.
10. In such circumstances, I am not in a position to subscribe to the view that the petitioners were not heard on February 4, 2025. The first proviso requires an opportunity of hearing to be afforded, which was complied with in the facts of the present case.



11. In view of the discussions above, **C.R.R. 1265 of 2025** and the connected application being **CRAN 1 of 2025** and **CRAN 2 of 2025** are dismissed.

(**Debangsu Basak, J.**)

S.D.