

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.14660 of 2014

Arising out of Singheshwarashthan P.S.Case No. 6 of 2011 district Madhepura

Ramdai Devi, W/o Kamleshwari Yadav, Resident of Village -
Patori, P.S. - Singheshwar, District - Madhepura.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

Appearance :

For the Petitioner : Mr. Radha Mohan Pathak, Adv.

For the State : Mr. D.K. Sinha, A.P.P.

For the Contemnor : Mr. Murari Nr. Choudhary, Adv.

For the Opposite Party : Mr. Mohit Shrivastava, Adv.

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

**HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

C.A.V. ORDER

**(Per: HONOURABLE MR. JUSTICE
CHAKRADHARI SHARAN SINGH)**

13 03/11/2015

This application was filed by the petitioner, namely, Ramdai Devi, seeking anticipatory bail, she being an accused in Singheshwar P.S. Case No.06 of 2011. In support of her prayer, for grant of anticipatory bail, she had brought on record, by way of Annexure-6, a communication, dated 01.07.2011, issued by the Inspector General of Police, Darbhanga Region, Darbhanga, addressed to the Superintendent of Police, Madhepura. By the said letter, the Inspector General of Police, Darbhanga Region, Darbhanga, had asked the



Superintendent of Police, Madhepura — who had already issued direction for submission of *charge sheet* against the accused persons — to verify the correctness of allegations against the accused and review the evidence in its entirety. The Inspector General of Police, Darbhanga Region, Darbhanga, had further asked the Superintendent of Police, Madhepura, not to proceed any further in the matter till necessary orders were passed by the Deputy Inspector General, Koshi Range, Saharsa, on the said review report.

2. The communication, dated 01.07.2011, appears to have been made in the light of certain representation filed by the accused persons alleging institution of the criminal case against them as an outcome of political rivalry.

3. The anticipatory bail application was taken up by a learned single Judge of this Court, who, vide an order, dated 02.04.2014, sought a report from the learned Chief Judicial Magistrate, Madhepura, as to whether non-bailable warrant of arrest and attachment orders had been issued against the appellant for anticipatory bail or not. The learned single Judge also asked the Director General of Police to furnish the name of the then Inspector General of Police, who had issued

the letter, dated 01.07.2011, aforementioned.

4. Without going into all the details, which are not necessary for the present purpose, what needs to be noted here is that the learned Chief Judicial Magistrate, Madhepura, informed this Court that non-bailable warrant was issued against the accused persons including the petitioner on 11.05.2011, though requisite process of attachment under Section 83 of the Code of Criminal Procedure (hereinafter referred to as "the Code"), were not issued. Mr. A. L. Pandit, learned Additional Public Prosecutor, appearing in this case, informed the learned single Judge that Shri R.K. Mishra was, at the relevant time, the Inspector General of Police, Darbhanga Region, Darbhanga, who had issued letter, dated 01.07.2011.

5. Learned counsel for the petitioner had sought permission to withdraw the application, which was accorded by learned single Judge, vide order, dated 21.04.2014, and, thus, the application stood dismissed as withdrawn by the said order. Learned single Judge, however, considered the said communication, dated 01.07.2011, issued by Shri R.K. Mishra, the then Inspector General of Police, Darbhanga Region, Darbhanga, directing the Superintendent of Police,



Madhepura, not to take any action against the accused persons, despite issuance of warrant of arrest and process, under Section 82 of the Code, against them, as "interference with the smooth Administration of Justice" and undermining the authority of the Court of Chief Judicial Magistrate, Madhepura, amounting to Contempt of Court.

6. Learned single Judge, accordingly, vide the order, dated 21.04.2014, called upon Shri R.K. Mishra, the then Inspector General of Police, Darbhanga Region, Darbhanga, to appear and show-cause as to why he should not be appropriately punished under the contempt of Courts Act. Noticing provisions, under Section 18 of the Contempt of Courts Act, 1971, learned single Judge, vide order, dated 25.11.2014, directed the matter to be placed before a Division Bench, the same being criminal contempt of Court. In the meanwhile, the said R.K. Mishra had submitted his reply on 30.04.2014.

7. In the backdrop of the facts, noted above, the proceeding has been taken up by us.

8. Show-cause and supplementaries to the show-cause have been filed by the said R.K. Mishra, which we have carefully perused.

9. Apart from tendering unqualified and

unconditional apology, the basic plea, which the contemnor has taken in his response to this Court's notice, is that he was completely unaware of any judicial order passed for issuance of non-bailable warrant and process under Section 82 of the Code.

10. In compliance of this Court's order, dated 14.07.2015, the contemnor, Shri R.K. Mishra, appeared before us.

11. We have heard Mr. Murari Narayan Choudhary, learned Advocate for the contemnor-opposite party, and Mr. D.K. Sinha, learned Additional Public Prosecutor for the State. We have also heard Mr. R.K. Mishra, the contemnor, who was in attendance personally.

12. From the records of the case and pleadings, nothing could be brought to our notice to arrive at the conclusion that the contemnor was in the knowledge of issuance of non-bailable warrant of arrest or process under Section 82 of the Code had been directed to be issued. There is nothing on record to show that the contemnor issued the said letter, dated 01.07.2011, despite knowing that non-bailable warrant of arrest and process, under Section 82 of the Code, had been issued by the Court of learned Chief Judicial Magistrate,

Madhepura. There is, thus, nothing on record to disbelieve the stand taken by the opposite party in his show-cause and the supplementaries.

13. In view of the above, in our opinion, it is difficult for this Court to arrive at the conclusion, on the basis of material on record, that the contemnor issued the order, dated 01.07.2011, though it was within his knowledge that warrant of arrest and process under Section 82 of the Code were already issued by the learned Chief Judicial Magistrate, Madhepura, and, thus, he wanted or intended to override the judicial order passed by the learned Chief Judicial Magistrate.

14. It is established legal position that standard of proof required in a case of criminal contempt of court is the same as applicable to a criminal case. An accused in a contempt proceeding is entitled to all safeguards as available to an accused in a criminal proceeding including benefit of doubt. A contemnor will be entitled to have the benefit of doubt till it is proved beyond all reasonable doubt that obstruction/interference to the course of justice or the alleged act, undermining the authority of the Court, is intentional, willful and deliberate for committal.

15. Further, we had the occasion to observe

the contemnor, who appeared before us during the proceedings, pursuant to orders of the Courts. He appeared to be full of remorse for having sent the said communication, dated 01.07.2011, which is the basis for initiating action against him, under the Contempt of Courts Act, 1971. The unconditional and unqualified apology, tendered by him, in the present proceeding, is, to our mind, genuine and acceptable.

16. In view of what have been discussed above, as above, we do not intend to proceed against the contemnor any further. However, we issue a note of caution to him to be careful in future and before issuing any directive of such nature, as involved in the present case, he must ensure that such a directive does not contravene any judicial order passed by a court of competent jurisdiction or is not in breach of law.

17. Situated thus, the proceeding against the contemnor stands dropped.

(Chakradhari Sharan Singh, J.)

I. A. Ansari, ACJ. :- I agree.

(I. A. Ansari, ACJ.)

Praveen-II/-

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