

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.24452 of 2016

Arising Out of PS.Case No. -937 Year- 2009 Thana -ROHTAS COMPLAINT CASE District-
SASARAM (ROHTAS)

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1. Javed Ahmad S/O Alimuddin Ahmad, Resident of village-Mon-301/2
(Kashan-e- Ahmad, harron nagar. P.S. Phulwarisarif, District Patna at
present moh- Balgovind Bigha, P.s. Dehri, district- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar
2. Surendra Kumar singh, S/o late Bhagwan Prasad Singh C/o moh-pahir
road, Dehir Ramjihm hotel, P.S. Dehri, District -Rohtas.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. S. Jamil Akhtar

For the Opposite Party/s : Mr. Abhay Kumar 4 (App)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

3 14-07-2016 Heard learned counsel for the parties.

I have perused the report submitted by the learned
Sessions Judge, Rohtas at Sasaram in compliance of the order
dated 20.06.2016 passed in this case. The said report was called
for in view of the submission advanced on behalf of the petitioner
that in the complaint case, without service of summons, warrant of
arrest was issued. The said stand taken on behalf of the petitioner
stands corroborated by the said report, dated 24.06.2016, relevant
portion of which reads thus:-

“Finding prima facie case under Section 406/504 IPC the
learned court has ordered to issue summon against accused Javed
Ahmad vide its order dated 27.05.2010 and on furnishing requisite by
the complainant summon was issued against the said accused vide
D.B. No. 912 though the date of issuing summon has not been
mentioned in the order sheet. From perusal of the record of

Complaint case No. 937/2009 it appears that there is no execution report of service of summon upon the accused on record and bailable warrant of arrest in the case was issued against the accused on 13.05.2011.

Hence, this report.”

It is a matter of serious concern that the practice of issuing warrant of arrest without verifying whether summons/notices have been dispatched and subsequently served upon the accused has become prevalent throughout the State of Bihar. In another matter arising out of Gopalganj District, having been faced with a situation, a report was called for from the District & Sessions Judge, Gopalganj, from which also it appeared that without awaiting service of summons, warrant of arrest had been issued in a casual manner.

So far as the present case is concerned, it arises out of a complaint case. It has come in the report that summons was not served on the petitioner before issuance of warrant. It is alleged against the petitioner that he had taken a sum of Rupees 50,000/- from the complainant as a friendly loan with an undertaking that he would refund the amount within two months. He failed, however, to repay the amount. Considering the nature of allegation, this application deserved to be allowed.

It is, therefore, directed that in the event of his arrest/surrender of the petitioner within four weeks from today

in the Court below, let above-named petitioner be released on bail on furnishing bail bond of Rs. 10,000/-(ten thousand) with two sureties of the like amount each to the satisfaction of Sri Dhirendra Kumar, learned Judicial Magistrate Ist Class, Dehri-On-Sone, Rohtas in Complaint Case No. 937 of 2009, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

This is subject to the condition that the petitioner shall present himself before the police/Court, as the case may be, as and when required and in the event of failure on his part to appear before the Court on two consecutive occasions, his bail bonds shall be liable to be cancelled.

Let this order be placed before Hon'ble the Acting Chief Justice.

(Chakradhari Sharan Singh, J)

ArunKumar/-

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