

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.45776 of 2017

Arising Out of PS.Case No. -493 Year- 2007 Thana -KADAMKUAN District- PATNA

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Shatranj Kumar @ Shatranj Kumar Gupta, Son of Late Bhagwan Das, R/o Mohalla-
Rai Hasanpur, Chaintola, Saidpur, P.S.- Kadam Kuan, District- Patna.

2. Ravi Gupta @ Ravi Kumar Gupta, Son of Hira Lal Sao, R/o Mohalla- Bardman
Colony, P.S.- Kadam Kuan, District- Patna.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar Das, Advocate
Mr. Anil Kumar, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 22-09-2017

This application under Section 482 of the Code of Criminal Procedure (for short 'Cr. P.C.') has been filed by the petitioners for setting aside the order dated 23.08.2010 and subsequent orders passed in Agam Kuan P.S. Case No.493 of 2007 whereby the learned Magistrate has cancelled the bail bonds and issued processes under Sections 82 and 83 of the Cr. P.C.

2. Learned counsel for the petitioners referring to the order passed by the learned Magistrate submitted that the aforesaid Agam Kuan P.S. Case No.493 of 2007 was registered for the offence



punishable under Sections 147, 448, 323 and 504 of the Indian Penal Code. Since the offences were all bailable in nature, the petitioners surrendered before the learned Magistrate on 07.11.2007 and were granted bail. Subsequently, on submission of the police report under Section 173(2) of the Cr. P.C. cognizance of the offences under Sections 147, 448, 323 and 504 of the Indian Penal Code was taken vide order dated 03.09.2008 and summonses were issued. He submitted that in absence of service of summonses bail bonds of the petitioners were cancelled and bailable warrant of arrest, non-bailable warrant of arrest and processes under Sections 82 and 83 were issued by the learned Magistrate vide orders dated 23.03.2010, 22.02.2016 and 19.08.2017 respectively. He submitted that it is well settled position in law that after obtaining bail in course of investigation in a police case, an accused is not required to attend the proceedings of the court till summonses are served after taking cognizance of the offence. He submitted that the impugned orders are patently bad in law. He submitted that the petitioners are law abiding citizens and they are ready to appear before the court on the date fixed by this Court.

3. *Per contra*, Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor for the State submitted that the petitioners being fully aware about the case deliberately failed to



appear before the court after submission of charge-sheet. Hence, the court was left with no option, but to cancel the bail bonds. He submitted that in a police case also, the accused is required to be vigilant about the ongoing proceeding of the case after obtaining bail and, even if no service report of the summonses have been received, the accused cannot sit tight over the matter and wait for an indefinite period for service of summons.

4. I have heard learned counsel for the parties and perused the record.

5. It would be evident from perusal of the order-sheet of the court below annexed to this petition that on 03.09.2008 the learned Magistrate ordered to issue summonses to the petitioners, but there is no compliance report and, in absence of any service report, bailable warrant of arrest, non-bailable warrant of arrest and processes under Sections 82 and 83 of the Cr. P.C. were ordered to be issued vide orders dated 13.05.2009, 22.03.2010, 20.02.2016 and 19.08.2017 respectively.

6. In the opinion of this Court, the court ought to have proceeded to the next stage only after receipt of the service report of the summons issued vide order dated 03.09.2008 against the petitioners.

7. In that view of the matter, the orders passed by the



learned Magistrate after 03.09.2008 cannot be sustained.

Accordingly, they all are set aside.

8. As learned counsel for the petitioners has submitted that now the petitioners are aware of the court proceedings, they would appear before the court on the date fixed by this Court.

9. In that view of the matter, I direct the petitioners to appear before the learned Magistrate concerned on 10th of October, 2017. It is made clear that no further notice would be required to be issued by the court against the petitioners for their appearance. In case, they fail to appear on 10th of October, 2017, the learned Magistrate would be at liberty to cancel their bail bonds and take coercive steps in accordance with law to compel their appearance before the court.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.09.2017
Transmission Date	23.09.2017

