

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43908 of 2017

Arising Out of PS.Case No. -63 Year- 1992 Thana -MARANCHI District- PATNA

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1. Ramadhar Paswan, son of Late Narayan Paswan, Resident of Pachmahla, Police Station- Maranchi, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rabi Bhushan, Adv.

For the Opposite Party/s : Mr. Jagdjar Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 14-05-2018

Heard learned counsel for the petitioner and learned counsel for the State.

2. This application under Section 482 of the Code of Criminal Procedure has been filed by the petitioner for setting aside the order dated 27.10.2016 passed by the learned Additional Sessions Judge-1, Barh in connection with Sessions Trial No. 341 of 1996 arising out of Maranchi P.S.Case No. 63 of 1992 registered under Section 395 of the Indian Penal Code (for short 'IPC').

3. It is submitted by the learned counsel for the petitioner that by order dated 22.12.1995 the learned Magistrate had taken cognizance of the offences punishable under Sections 395 and 412 of the IPC and on the same day the case was committed to the court of Sessions for trial. After commitment of the case, the records were



transferred from the court of Sessions Judge to the court of Additional Sessions Judge-1, Barh. It is submitted that after the case was transferred to the court of Additional Sessions Judge-1, Barh, the petitioner was never served with summons or warrants and in absence of any service report, vide impugned order dated 27.10.2016, he has been declared permanent absconder. He submitted that the order impugned is patently bad in law and, thus, fit to be set aside.

4. On the other hand, learned counsel appearing for the State submitted that from the impugned order it would be evident that after submission of charge-sheet, summons and bailable and non-bailable warrants were issued against the petitioner and despite having full knowledge of the case, he failed to appear before the court for a long time and once the court was satisfied that he is evading appearance and also flouting the orders of the court, vide impugned order dated 27.10.2016, permanent warrant of arrest was issued against him.

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

6. Admittedly, this case is of the year 1992. The petitioner is named in the FIR. The police in course of investigation found the allegations true under Sections 395 and 412 of the IPC and submitted charge-sheet against the petitioner. The commitment of the case was



made on 22.12.1995 after taking cognizance of the offences by the learned Magistrate and since then he is evading to appear before the court. From the order impugned, it does not appear that the petitioner was never served with summons after taking cognizance of the offence. The petitioner has also not challenged the order by which warrants of arrest were issued against him and for which repeated reminders were also issued by the court below. Once the petitioner has not challenged the order issuing warrants of arrest, the plea of non-service of summons would not be available to him at any subsequent stage whereby consequential orders have been passed.

7. In that view of the matter, I see no merit in this application. It is accordingly dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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