

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.212 of 2017

Arising Out of PS. Case No.-47 Year-2015 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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Bibi Sabra Khatoon Wife of Md. Mokhtar, Daughter of Md. Jamal Mansuri,
resident of Village- Bhagwat, P.O.- Srinagar, Police Station- Ishipur, Barahat,
District- Bhagalpur Bihar.

... .. Petitioner

Versus

1. The State Of Bihar Through The Director General Of Police, Bihar, Patna
2. The Senior Superintendent of Police, Bhagalpur.
3. The Superintendent of Police, City, Bhagalpur.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Manish Kumar No-2
For the Respondent/s : Ms Prachi Pallavi, A.C. to A.G.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 08-07-2019 This writ petition has been filed by the petitioner for a direction to the respondent authorities to take coercive measures against the accused persons of Complaint Case No. 47 of 2015 pending in the court of Sub-Divisional Judicial Magistrate, Bhagalpur and put them behind the bar as they are evading the processes issued by the court.

A counter affidavit has been filed on behalf of the State wherein it has been stated that neither any warrant of arrest in the complaint case has been received by the police nor any communication has been made to the Senior Superintendent of Police, Bhagalpur in this regard.

Having heard the parties, I find that the matter is



pending before the court of Magistrate. In a complaint case, it is for the Magistrate concerned to hold inquiry and issue processes for appearance of the accused. In case the processes issued by the court are not complied with, Code of Criminal Procedure gives ample power to the Magistrate to ensure compliance of the order.

In my considered opinion, the writ petition filed before this Court for execution of an order passed by a Magistrate is nothing but an abuse of the process of court. Similarly, in a case arising out of a complaint, no direction can be given by this Court in exercise of jurisdiction under Article 226 of the Constitution of India to the police for arresting an accused.

The application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

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