

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.981 of 2019

Arising Out of PS. Case No.-1038 Year-2013 Thana- VAISALI COMPLAINT CASE
District- Vaishali

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Ravindra Kumar Son of Late Ramjeevan Singh Resident of Village-
Ahilyapur Patedha, P.S.- Sarai, District- Vaishali

... .. Petitioner

Versus

1. The State Of Bihar Through The Principal Secretary Deptt. Of Home Govt. Of Bihar, Patna
2. The Director General of Police, Bihar, Patna
3. The Superintendent of Police, Vaishali at Hajipur
4. The Superintendent of Police, Muzaffarpur
5. The Deputy Superintendent of Police, Vaishali at Hajipur
6. The Dy. S.P.- Muzaffarpur
7. The Officer- In Charge, Ahiyapur Police Station, Muzaffarpur

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Krishna Kumar
For the Respondent/s : Mr.M. Nasrul Huda Khan

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 26-06-2019 This application has been filed by the petitioner for directing the respondents to secure compliance of the order passed by the learned ACJM-IX, Vaishali in Complaint Case No. 1038 of 2013.

Learned counsel for the petitioner submitted that in a case under Section 138 of the Negotiable Instruments Act, though the court of Magistrate has issued warrant of arrest, bailable and non-bailable and has declared the accused a proclaimed offender and his property has also been attached, he has not appeared before the court. He submitted that in absence



of the accused, the trial is not proceeding. Thus, the respondents be directed to comply with the order passed by the court of Magistrate and produce him before the court.

On the other hand, learned counsel for the State submitted that the application is misconceived. The matter is pending before the court of Magistrate. The Code of Criminal Procedure gives ample power to the court of Magistrate to get its orders executed and the extraordinary powers of Articles 226 and 227 of the Constitution of India should not be misused for the purpose of executing the order passed by a subordinate court.

I find substance in the submission of the learned counsel for the State. The petitioner may resort to his remedies before the court of Magistrate itself. I am also of the opinion that the application under Article 226 of the Constitution of India cannot be entertained for the purpose of execution of an order passed by a subordinate court.

The application is dismissed.

(Ashwani Kumar Singh, J)

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