

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No.272 of 2020

- Satyanarayan Agrawal S/o Late Shri Ramgopal Agrawal Aged About 64 Years R/o Gudhyari, Raipur Tehsil And District Raipur Chhattisgarh

---- Petitioner

Versus

- Vijay Kumar Nagpure S/o Late Shri Mukund Nagpure Aged About 60 Years R/o Marfat Nagorav Engineering, Works Telghani Naka, Raipur, Tehsil And District Raipur Chhattisgarh

---- Respondent

For Petitioner : Mr. Manoj Paranjpe, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

09-03-2020

Heard.

1. This petition is not against any specific order passed by the trial Court, the only prayer is for issuance of specific direction.
2. Learned counsel for the petitioner submits that the petitioner has filed a complaint under Section 138 of Negotiable Instruments Act against the respondent on 19.09.2016 and till date, the summons could not be served upon the respondent. The Court has adjourned the case for a number of times and directed to make payment of process fee and the petitioner has paid process fee accordingly, but it would be revealed from the copy of the order sheets filed that no concerted effort has been made to ensure that the respondent is served with notice. Therefore, it is prayed that direction be issued.
3. Considered on the submissions made and also perused the copy of the order sheets filed along with the petitions, it is found that the learned

trial Court is making formal orders for payment of process fee and issuance of process against the respondent. Once there is an order for issuance of process then it is the duty of the Court to ensure that the process is served upon the respondent and for that the Code of Criminal Procedure provides coercive methods also.

4. Further, in this case as informed that not a single report has been returned by the process server as to for what reason the notices are not being served upon the respondent, which also needs an inquiry to be made regarding the act and conduct of the said process server, if it is necessary to do so. The learned Court has also option to make the service effectively upon the respondent through police help and in the last of the order sheet dated 12.12.2019, it is mentioned that the warrant of arrest be issued to be served upon the respondent through the Superintendent of Police.
5. As it appears to be a typical case in which the respondent side may be avoiding the service of summons and other process upon him. The learned Court has authority to make correspondence with the police officers which may have more effect upon them and also reflect insistence of the Court, that the order for service of process is meant to be executed upon the person concerned and the result will come accordingly. Therefore, with this observation, the petition is disposed off at the motion stage and the learned trial Court is directed to make endeavour with all sincerity by taking help of the police agency to effect the service of process upon the respondent as early as possible.
6. Accordingly, the petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge