

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.13191 of 2020**

Arising Out of PS. Case No.-15983 Year-2014 Thana- BEGUSARAI COMPLAINT CASE  
District- Begusarai

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1. Harjeet Singh Arora @ Harjeet Arora, aged about 66 years, Male, S/o Shri Shobha Singh Arora, R/o H. No. 473A, P.S.- Model Town Extn. Distt.- Ludhiana, Punjab- 141001
  2. R. K. Singhanian, aged about 65 years, Male, S/o Shri Kedarnath Singhanian, R/o H. No.96, Sant Nagar, P.S.- Civil Lines, Distt- Ludhiana, Punjab-141001.
  3. Harinder Singh, aged about 52 years, Male, S/o Shri Inderjit Singh, R/o H. No.J-9/64, P.S.- Rajouri Garden, Distt. West Delhi, New Delhi-110027.
  4. Jashan Arora, aged about 34 years, Male, S/o Shri Harjeet Singh Arora, R/o H. No.473A, P.S.- Model Town Extn. Distt.-Ludhiana, Panjab-141001
  5. Virender Arora, aged about 47 years, Male, S/o Shri Roshan Lal Arora, R/o H. No. 902/C2, Legend Apartment, P.S.- Sushant Lok, Phase-3, Sector- 57, Distt.-Gurugram. Haryana -122002.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sanjeev Kumar, aged about not known, Male, S/o Shri Rajiv Ranjan, Resident of Village- Maniyappa, P.S.- Matihani, Distt- Begusarai. Bihar- 851129

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Vinay Mistry, Advocate  
For the Opposite Party/s : Mr.Satya Nand Shukla

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**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN  
ORAL ORDER**

4      05-04-2021                      By order dated 08.01.2021, notice was issued to the opposite party no.2 through registered cover with A/D as well as by ordinary process.

The office points out that the notice received personally upon opposite party no.2 as per report of the process server. S.R. at flag is signed A/D received personally, which is kept at flag 'B'.

On 15.03.2021, nobody appeared on behalf of the



opposite party no.2. Today also, nobody appears on behalf of opposite party no.2.

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

The present Cr. Misc. application has been filed under Section 482 of the Cr.P.C. for setting aside the order dated 16.04.2015 and the order dated 19.06.2015 whereby the learned court below has issued bailable and then non-bailable warrants without awaiting the service report and further the proclamation published under Section 82 Cr.P.C. and all consequential proceedings emanating there from vide the impugned order dated 27.11.2015 passed by the court of Shri Rakesh Kumar, learned Judicial Magistrate-2nd Class, Begusarai, Bihar in Complaint Case No.15983 of 2014 titled "*Sanjeev Kumar Vs. Shri Krishan Yadav & Ors*".

Reliance has been placed on behalf of the petitioners on case **Jayant Dang Vs. The State of Bihar & Ors** reported in **2004(4) PLJR 25**. In paragraph-6 of the said judgment, a Coordinate Bench of this Court has held as follows :-

“6. Having considered the rival submissions of the Counsel for the parties this Court holds that it is not in dispute from the records that accused no.6 in fact entered appearance at the stage of summons. In so far as accused no.2 is concerned, there was no service report with regard to summons when warrants came to be issued against him on 11.01.2000. Chapter VI of the Code of Criminal Procedure details the procedure



of issuance of and service of summons. The stage of warrant as contained in Part B of Chapter VI arises only thereafter. In the absence of any order recording the satisfaction of the Court below with regard to the service of summons according to law, theailable warrants issued against the petitioner (accused no.2) cannot be sustained. In the circumstances, this Court holds that the issuance of warrant against accused no.2 was not justified at this stage. Reliance may be had upon the judgment of this Court reported in 2000 (3) PLJR 251. Warrants thus having been issued contrary to law the proceedings would be deemed to be at the stage of summons and the accused no.2 having entered appearance at this stage cannot thus be denied the benefit of consideration for grant of relief under Section 205 Cr.P.C. This Court therefore holds that the proceedings in so far as accused no.2 be concerned, rests at the stage of summons.”

On perusal of the entire order sheet of the court below, it is evident that there is no report of service of summons on the record, therefore, issuance of non-ailable warrant of arrest against the petitioners is bad in law in view of the aforesaid judgment as well as the fact that there was no material



before the learned Magistrate to satisfy that the petitioners are not honouring the summons issued by the court below. Therefore, impugned order stands quashed and in the event, the petitioners appear before the court below within a month, the same shall be treated as appearance on summons. The aforesaid period of one month shall be counted from the date of disposal of the petition of the petitioners filed under Section 205 of Cr.P.C., if any, and pending before the court below.

With the aforesaid observation, this application stands disposed of.

**(Anjani Kumar Sharan, J)**

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