

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.475 of 2021

Arising Out of PS. Case No.-2142 Year-2018 Thana- PATNA COMPLAINT CASE District-
Patna

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SUBHASIS GAYEN S/o Sri L.N. Gayen R/o 4/16 Rocky Path, P.S. - Sakhsapur, Sarani, Durgapur, Posted ast Sales Executive, supreme Industries Limited, At present R/O Room No. 701 and 709, 7th Floor, one Malla, Dak Bunglow Road Crossing, near Maurya Lok Complex, P.S. - Pirbahore, District - Patna -800001.

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Home Deptt., Old Secretariat, Patna-1 Bihar
2. The Principal Secretary, Home Department, Government of Bihar, Old Secretariat, Patna -1. Bihar
3. The Commissioner of Police, Kolkata. Bihar
4. The SHO, Kasba, 120D, Sarat Ghosh Garden, P.S. Kasba, Kolkata. Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Ms.Vagisha Pragya Vacaknavi, Adv.
For the State	:	Mr. Deepak Kumar, AC to GP-4
For respondents 5 & 6	:	Mr. Ravi Shankar Raj, Adv.
For respondents 3 &4	:	Kumar Manish, Adv., Mrs. Shama Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL JUDGMENT

Date : 05-04-2024

Heard learned Advocate for the petitioner as well as learned APP for the State.

2. The instant writ petition has been filed for commanding the respondents, specially respondent nos. 3 and 4 to execute the warrant of arrest issued against the original respondent



nos. 5 and 6 in connection with Complaint Case No. 2142(C) of 2018 by the learned Judicial Magistrate, Ist Class, Patna.

3. On perusal of the record, I find that the warrant of arrest was issued on 29th October, 2019 and it was sent to the Officer-in charge, Kasba Police Station to execute the same. It is alleged by the petitioner that police attached to Kasba Police Station within the jurisdiction of Kolkata Metro Police did not execute the warrant of arrest against the respondent nos. 5 and 6, since deleted, who were the accused persons in Complaint Case No. 2142(C) of 2018.

4. It will not out of place to mention that the petitioner filed Complaint Case No. 2142(C) of 2018 against the private respondents alleging commission of offence under Section 406 of the I.P.C. and Section 138 of the Negotiable Instrument Act.

5. The trial court took cognizance of offence under Section 406 of the I.P.C. No cognizance was taken in respect of the offence under Section 138 of the Negotiable Instrument Act. Against the said order of taking cognizance, petitioner filed a criminal revision being Criminal Revision No. 227 of 2022 before the learned Additional Sessions Judge-I, Patna. The learned Additional Sessions Judge-I, Patna vide order dated 22nd February, 2024 quashed and set aside the order taking cognizance dated 3rd



November, 2018 and directed the trial court to take up the complaint case for fresh hearing on the point of cognizance.

6. It is also submitted on behalf of the respondents that after the order dated 22nd February, 2024 having been passed in Criminal Revision No. 227 of 2022, the warrant of arrest against the respondent nos. 5 and 6, since deleted, were recalled.

7. A counter affidavit has been filed on behalf of the respondent nos. 3 and 4, wherein it is specifically stated that warrant of arrest could not be issued by the learned Judicial Magistrate, Ist Class, Patna against respondent nos. 5 and 6 in connection with Complaint Case No. 2142(C) of 2018 and could not be executed as the address of the respondents was found to be untraceable.

8. Be that as it may, when the order of taking cognizance has been set aside by the revisional court, the petitioner at this stage cannot raise any grievance with regard to non-compliance of the court's order, so far as it relates to execution of warrant of arrest by respondent nos. 3 and 4.

9. In view of such circumstances, the instant writ petition becomes infructuous, specially after the disposal of Criminal Revision No. 227 of 2022 quashing and setting aside the



order of taking cognizance in Complaint Case No. 2142(C) of 2018.

10. For the reasons stated above, I am not in a position to pass any order on an infructuous writ petition.

11. The instant writ petition is accordingly dismissed on contest.

(Bibek Chaudhuri, J)

pravinkumar/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	
Transmission Date	

