

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.227 of 2024

Arising Out of PS. Case No.-1017 Year-2018 Thana- PATNA COMPLAINT CASE District-
Patna

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Ajeet Kumar Pandey @ Ajit Kumar Pandey @ Ajit Pandey @ Ajit Dutt
Pandey S/o Late Parmeshwar Dutt Pandey R/o Durja Pahalwan Ghat, Gate
No. 13, Phulwari, P.s. - Buddha Colony, Distt. - Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Lala Rai S/o Kameshwar Rai R/o Vill - Bakerchak, P.S. - Gaurichak, distt. -
Patna, and also R/o Durja Pahalwan Ghat, Gate no. 13, P.S. - Buddha
Colony, Distt. - patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ravish Mishra, Advocate
For the Respondent/s : Mr. Uday Pratap Singh, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 19-04-2024 The petitioner is an accused in connection with

Complaint Case No. 1017(c)/2018 pending before the learned

Judicial Magistrate 1st Class at Patna.

2. It is contended on behalf of the petitioner that the
complaint case was filed and registered in the year 2018, date
was fixed for the initial examination of the complainant and
witnesses on sole affirmation under Section 200 of the CrPC.
The complainant was examined on 21st March 2018 and
subsequently, two witnesses on behalf of the
complainant/opposite party no. 2 were examined on 12th
September 2018 and 15th September 2018. Surprisingly, enough
the court of the learned Judicial Magistrate Patna took



cognizance of the offence punishable under Sections 379/452 of the IPC on 29th June 2022, i.e., after the expiry of 4 years.

3. It is submitted by the learned Advocate for the petitioner that after taking cognizance, process was issued against the petitioner, and summon was sent on 13th July 2022, thereafter, within one and a half months, the trial court issued bailable warrant and subsequently non-bailable warrant against the petitioner.

4. On the strength of non-bailable warrant, the petitioner was arrested and he was put behind the bar for 18 days, thereafter, he was released on bail. According to the learned Advocate for the petitioner, the entire process of taking cognizance after inordinate delay after filing of the complaint case and subsequently, issuance of non-bailable warrant against the petitioner without obtaining service record is bad in law.

5. Since non bailable warrant was issued and executed against the petitioner, I am not in a position to pass any order recalling the process of warrant issued against the petitioner. However, the fact remains that the learned Magistrate took cognizance of offence after a lapse of about 4 years. No court can keep a record of a complaint case for 4 years without taking cognizance. The action on the part of the learned Magistrate in



this regard is absolutely irregular, however, the petitioner has not prayed for quashing of the criminal proceeding for delayed cognizance. The petitioner is aggrieved against the non-bailable warrant when the said warrant has already been executed, this Court is not in a position to pass any order in the instant revision, however, the learned Magistrate is directed not to issue any bailable warrant or non-bailable arrest warrant before receiving the service report of summons. Non-bailable warrant can only be issued after receipt of the report of bailable warrant. It is submitted by the learned Advocate for the petitioner that the trial court even did not wait for the report. Henceforth, no non-bailable warrant should be issued before receipt of the execution report of bailable warrant. and with regard to issuance of bailable or non-bailable warrant, the learned Magistrate is directed to follow the guideline made by the Hon'ble Apex Court in the case of **Satender Kumar Antil v. CBI**, reported in **(2022) 10 SCC 51**.

6. The instant revision is accordingly, disposed of.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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