

22.04.2025
Item No.10
Ct. No. 26
CHC

CRLCP 6 of 2024

Shri Pradip Debnath
Vs.
Shri Nirupam Mondal, The Officer-in-Charge, Mogra Police
Station & Ors.

Mrs. Dipanwita Ganguly, Advocate
Ms. Arpita Chakraborty, Advocate
...for the applicant/petitioner

Mr. Sourav Chatterjee, Senior Advocate
Mr. Mainak Gupta, Advocate
....for the alleged contemnor no.1

Mr. Pradipta Ganguly, Advocate
....for the alleged contemnor no.2

Mr. Joydeep Roy, Jr. Govt. Advocate
Ms. Suveni Banerjee, Advocate
....for the State
Mr. Ranadeb Sengupta, Advocate
Ms. Rajkumari Priyanka Devi, Advocate
....for the de facto complainant

1. Report submitted on behalf of the State be taken on record.
2. In this Contempt Rule petitioner alleges that, the contemnors violated the directions contained in **(2014) 8 Supreme Court Cases 273 (Arnesh Kumar vs. State of Bihar & Another)**.
3. Contempt Rule is taken up for final hearing after completion of affidavits.
4. Learned advocate appearing for the petitioner refers to the **Arnesh Kumar (supra)**. She submits that, since the First Information Report relates to an offence punishable less

than 7 years it was incumbent upon the police authorities to issue notice under Section 41A of the Criminal Procedure Code. Admittedly, police arrested the petitioner without compliance with the directions contained in **Arnesh Kumar (supra)** and without issuing the notice under Section 41A of the Criminal Procedure Code.

5. State, contemnors as well as the victim are represented.
6. It is submitted on behalf of the contemnors that, police received reliable information that, the petitioner was about to abscond and therefore, the Investigating Officer arrested the petitioner. In support of such contention, a G.D. Entry made by the Investigating Officer is referred to.
7. In our view, **Arnesh Kumar (supra)** requires a notice under Section 41A of the Criminal Procedure Code to be issued once the Investigating Officer is of the opinion that, the arrest of the accused is not required under Section 41(1) of the Criminal Procedure Code.
8. In the facts and circumstances of the present case, the petitioner is the parental uncle of the victim. He is standing trial in respect of offences *inter alia*, under the Protection of Children against Sexual Offences Act.
9. At the stage of investigation, the Investigating Officer entered a G. D. Entry at 00:15 hrs on September 13, 2023 being No.384, where, he recorded that, he received

an information from reliable source that, the petitioner will leave his residence to avoid arrest. After making the requisite G. D. Entry, he proceeded to arrest the petitioner.

10. In our view, action of the Investigating Officer was in consonance with Section 41(1)(b)(e) of the Criminal Procedure Code. Therefore, since the Investigating Officer was of the view that, the petitioner was required to be arrested in terms of Section 41(1) of Criminal Procedure Code, necessity of issuance of a notice under Section 41A of the Criminal Procedure Code was not required to be served prior to arrest.
11. The Investigating Officer took a judgment call on September 13, 2023 with regard to the requirement of arrest of the petitioner. That judgment call cannot be termed as contemptuous of the directions contained in **Arnesh Kumar (supra)** in the facts and circumstances of the present case.
12. In such circumstances, we discharge the Rule issued as against the alleged contemnors/respondents.
13. **CRLCP 6 of 2024** is **disposed of** accordingly.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)