

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9711 of 2026

Arising Out of PS. Case No.-747 Year-2022 Thana- COMPLAINT CASE - HILSA District-
Nalanda

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Mukesh Pandit, S/o Ramashish Pandit @ Ramasish Pandit, Resident Of
Korauta Bazar, Gopalpur, P.O. and P.S.- Lohta, Dist.- Varanasi- 221107, U.P.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Manisha Kumari, D/o Sanjay Pandit, Residing at Islampur Patel Nagar, P.S.-
Islampur, Dist.- Nalanda.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ravi Prakash Dwivedi, Advocate Mr. Saurabh Raj, Advocate
For the State	:	Mr. Arun Kumar Pandey, APP
For the O.P. No.2	:	Mr. Bhim Sen Prasad, Advocate Ms. Sushma Kumari, Advocate

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CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

- 4 24-04-2026 1. Heard learned counsel for the petitioner as well as

learned counsel for the O.P. No.2 and learned APP for the State.
2. The present application has been filed invoking the

inherent jurisdiction of this Court under Section 482 of the Code
of Criminal Procedure, 1973 (hereinafter referred to as
'Cr.P.C.') for quashing of the orders dated 11.09.2023,
03.01.2024, 23.01.2025, 08.07.2025 and 03.11.2025 passed by
the learned Sub-Divisional Judicial Magistrate, Hilsa, Nalanda
(hereinafter referred to as 'Trial Court') in connection with
Complaint Case No. 747 (C) of 2022, whereby successive
coercive processes including bailable warrant, non-bailable



warrant, proclamation under Section 82 of the Cr.P.C., and attachment under Section 83 of the Cr.P.C. have been issued against the petitioner and he has been declared proclaimed offender, allegedly without receipt of service reports at the preceding stages, and further for a direction to treat the case at the stage of summons.

3. The prosecution case arises out of a complaint instituted by the O.P. No.2 (complainant) alleging offences under Sections 323, 341, 379, 504, 506, 498A, 467, 420, 468, 477 read with Section 34 of the Indian Penal Code, 1860 and under Sections 3 & 4 of the Dowry Prohibition Act, 1961 against the petitioner and his family members. Upon inquiry, cognizance was taken only against the petitioner for offences under Sections 498A and 323 of the Indian Penal Code and Sections 3 & 4 of the Dowry Prohibition Act, and summons were directed to be issued.

4. It appears from the record that after issuance of summons, the matter was taken up on several dates, however, the service report of summons was not received. Thereafter, *vide* order dated 11.09.2023, the learned trial court directed issuance of bailable warrant of arrest against the petitioner. Subsequently, in absence of service report of the bailable



warrant, non-bailable warrant of arrest was issued *vide* order dated 03.01.2024. Thereafter, without receipt of execution report of the non-bailable warrant, process under Section 82 Cr.P.C. was directed to be issued, and ultimately, *vide* order dated 08.07.2025, process under Section 83 Cr.P.C. was also issued against the petitioner. Subsequently, the petitioner has been declared to be a proclaimed offender *vide* order dated 03.11.2025.

5. Learned counsel for the petitioner submits that the entire sequence of impugned orders reflects a complete non-application of judicial mind by the learned Trial Court. He submits that the statutory scheme of the Cr.P.C. mandates a graded procedure, wherein coercive processes such as bailable warrant, non-bailable warrant, proclamation under Section 82 Cr.P.C., and attachment under Section 83 Cr.P.C. can be issued only upon due satisfaction regarding prior service and deliberate non-appearance of the accused. It is further submitted that in the present case, the learned Trial Court proceeded to issue successive coercive processes without receiving any service report of the earlier processes, thereby rendering the impugned orders legally unsustainable.

6. Learned counsel for the petitioner further submits



that such action of the learned Trial Court has resulted in serious prejudice to the petitioner and amounts to violation of principles of natural justice, as the petitioner was deprived of an opportunity to appear before the learned Trial Court. Learned counsel submits that the escalation of process, in absence of foundational requirements, is contrary to settled legal principles governing issuance of warrants and proclamation. It is thus submitted that the impugned orders are fit to be quashed and the proceeding be restored to the stage of summons in the interest of justice.

7. Learned counsel for the O.P. No. 2 submits that the learned Trial Court has rightly proceeded in the matter in view of the continuous non-appearance of the petitioner despite initiation of process. It is submitted that the complaint discloses serious allegations relating to cruelty, assault, and dowry demand, and the petitioner has deliberately avoided the proceedings to frustrate the course of justice. Learned counsel further submits that the impugned orders have been passed to secure the presence of the petitioner and do not suffer from any illegality warranting interference by this Court. Accordingly, learned counsel prays that the present application be dismissed.

8. Learned APP for the State submits that the orders



passed by the learned Trial Court have been made in the course of proceedings to secure the presence of the petitioner, who failed to appear despite repeated opportunities. It is submitted that the learned Trial Court was justified in proceeding with coercive measures in view of the conduct of the petitioner and the necessity to ensure expeditious progress of the case.

9. Having heard the learned counsel for the parties and upon perusal of the materials available on record, this Court finds that the scope of interference under Section 482 of the Cr.P.C. is well settled. The inherent jurisdiction of this Court is to be exercised sparingly, with circumspection, and only to prevent abuse of the process of the court or to secure the ends of justice. However, where the orders passed by the learned Trial Court are found to be in violation of the mandatory procedure prescribed under law or suffer from patent illegality, this Court would be justified in exercising its inherent powers to correct such jurisdictional errors.

10. Upon perusal of the order-sheet and materials available on record, it transpires that after taking cognizance against the petitioner, summons were directed to be issued; however, on several dates fixed, no service report of summons was received by the learned Trial Court. Despite the absence of



any such report indicating due service or deliberate avoidance on the part of the petitioner, the learned Trial Court proceeded to issue bailable warrant of arrest *vide* order dated 11.09.2023. Thereafter, even without receipt of service report of the bailable warrant, the learned Trial Court escalated the process and issued non-bailable warrant of arrest *vide* order dated 03.01.2024, which *prima facie* appears to be in deviation from the settled procedure requiring satisfaction regarding non-execution or evasion.

11. It further appears that in continuation of the aforesaid approach, the learned Trial Court directed issuance of process under Section 82 Cr.P.C. and subsequently under Section 83 Cr.P.C. without there being any material on record to show due execution of the non-bailable warrant or proper compliance of the statutory requirements for proclamation. The order-sheet consistently reflects non-receipt of service reports at each stage, yet the coercive measures were successively intensified. Such progression, in absence of foundational satisfaction as mandated under law, indicates procedural irregularity in the exercise of jurisdiction by the learned Trial Court.

12. The Hon'ble Supreme Court in ***Inder Mohan***



Goswami and Anr. v. State of Uttranchal and Ors., reported in
(2007) 12 SCC 1, has observed as under:

“53. Non-bailable warrant should be issued to bring a person to court when summons or bailable warrants would be unlikely to have the desired result. This could be when:

- it is reasonable to believe that the person will not voluntarily appear in court; or*
- the police authorities are unable to find the person to serve him with a summon; or*
- it is considered that the person could harm someone if not placed into custody immediately.*

54. As far as possible, if the court is of the opinion that a summon will suffice in getting the appearance of the accused in the court, the summon or the bailable warrants should be preferred. The warrants either bailable or non-bailable should never be issued without proper scrutiny of facts and complete application of mind, due to the extremely serious consequences and ramifications which ensue on issuance of warrants. The court must very carefully examine whether the criminal complaint or FIR has not been filed with an oblique motive.

55. In complaint cases, at the first instance, the court should direct serving of the summons along with the copy of the complaint. If the accused seem to be avoiding the summons, the court, in the second instance should issue bailable warrant. In the third instance, when the court is fully satisfied that the accused is avoiding the court's proceeding intentionally, the process of issuance of the non-bailable warrant should be resorted to. Personal liberty is paramount, therefore, we



caution courts at the first and second instance to refrain from issuing non-bailable warrants.

56. The power being discretionary must be exercised judiciously with extreme care and caution. The court should properly balance both personal liberty and societal interest before issuing warrants. There cannot be any straitjacket formula for issuance of warrants but as a general rule, unless an accused is charged with the commission of an offence of a heinous crime and it is feared that he is likely to tamper or destroy the evidence or is likely to evade the process of law, issuance of non-bailable warrants should be avoided.

57. The court should try to maintain proper balance between individual liberty and the interest of the public and the State while issuing non-bailable warrant.”

13. The Hon’ble Supreme Court has recently observed the legislative intent of Section 82 of the Cr.P.C. in ***Daljit Singh v. State of Haryana and Anr.***, reported in **2025 SCC OnLine SC 1**, as herein under:

“7.1. The purpose of Section 82 Cr. P.C., as can be understood from a bare reading of the statutory text is to ensure that a person who is called to appear before a Court, does so. This Section appears as part of Chapter VI which is titled ‘Process to Compel Appearance’. Section 83 to 90 provide for the additional method of attachment of property to the end of securing appearance. Necessarily then some or the other proceeding has to be ongoing for which the presence of such person is necessary. The words of the Section dictate that it can be



only issued in respect of a person against whom a warrant has been issued. Neither a warrant nor proclamation subsequent can be conjured up out of thin air.”

14. It is well settled that the provisions relating to proclamation and attachment under Sections 82 and 83 of the Cr.P.C. are drastic in nature and, therefore, are required to be invoked with due caution and strict adherence to the procedure prescribed therein. The Hon'ble Supreme Court has consistently held that issuance of proclamation under Section 82 Cr.P.C. can only be resorted to after the Court records its satisfaction that the accused has absconded or is concealing himself to avoid execution of warrant, and that such satisfaction must be based on material including proper execution report of non-bailable warrant. Similarly, attachment under Section 83 Cr.P.C. is consequential in nature and cannot be mechanically ordered unless the conditions precedent for issuance of proclamation are duly satisfied. A liberal and cautious approach is thus mandated in such matters, ensuring that coercive processes are not issued in a routine manner but only upon strict compliance with statutory requirements, so as to safeguard the rights of the accused and prevent misuse of process.

15. Applying the aforesaid settled principles to the facts of the present case, this Court finds that the learned Trial



Court has proceeded to issue successive coercive processes without recording the requisite satisfaction as mandated under law and in absence of service reports at each preceding stage. The order-sheet does not disclose any material to indicate that the petitioner was deliberately evading service or had absconded so as to justify invocation of proceedings under Sections 82 and 83 Cr.P.C. In such circumstances, the impugned orders appear to have been passed in a mechanical manner, in clear deviation of the statutory scheme, thereby rendering the same unsustainable in the eyes of law.

16. Accordingly, in view of the discussions made hereinabove, the impugned orders dated 11.09.2023, 03.01.2024, 23.01.2025, 08.07.2025 and 03.11.2025 passed by the learned Sub-Divisional Judicial Magistrate, Hilsa, Nalanda in Complaint Case No. 747 (C) of 2022 are hereby set aside.

17. Resultantly, all the coercive steps taken against the petitioner pursuant to the aforesaid impugned orders stand quashed.

18. The present matter is remitted back to the Court concerned with a direction to proceed afresh strictly in accordance with law from the stage of issuance of summons, after ensuring due service upon the petitioner. The petitioner is



also directed to cooperate in the proceedings and appear before the learned Court concerned as and when required.

19. With the aforesaid observations and directions, the present Criminal Miscellaneous Application stands allowed.

20. Let a copy of this order be transmitted forthwith to the learned Court concerned for information and necessary compliance.

(Sunil Dutta Mishra, J)

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