IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 2894 of 2026

Abdul Majid @ Mokhar Sheikh, Aged about 67 years, Son of Habu Sheka, Resident of Village –Murgi Tola, Post Office –Narayanpur, Police Station –Rajmahal, District –Sahibganj.

.... Petitioner

Versus

The State of Jharkhand .... Opp. Party

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

.....

For the Petitioner : Mr. Raja Ravi Shekhar Singh, Advocate
For the State : Mrs. Shweta Singh, Addl. P.P.

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By the Court:-

1. Heard the parties.

2. This criminal miscellaneous petition has been filed invoking the jurisdiction of this Court under Section 528 of B.N.S.S., 2023 with the prayer to quash the order dated 22.08.2026 passed by the learned Sub-Divisional Judicial Magistrate, Rajmahal in Rajmahal P.S. Case No. 233 of 2026 by which the learned Sub–Divisional Judicial Magistrate, Rajmahal has directed for issuance of the proclamation under Section 84 of the B.N.S.S.

3. It is submitted by the learned counsel for the petitioner that since the I.O. of the case made the prayer under Section 82 of the Cr.P.C. and the learned Sub-Divisional Judicial Magistrate, Rajmahal has ordered that the petitioner must appear before the court concerned within 35 days, the same amounts to not mentioning the time for appearance of the petitioner. Hence, it is submitted that the prayer as prayed for in this criminal miscellaneous petition be allowed.

4. The learned Additional Public Prosecutor on the other hand vehemently opposes the prayer and submits that the time of the civil courts in the State of Jharkhand is governed by the provisions in the Civil Courts Rules. So, when the time of the Court is governed by a rule, there is no necessity of mentioning the exact time of the working hours of the court because it is deemed that the said time is as prescribed in the Rules. It is next submitted that it is a settled principle of law that wrong provision of law mentioned in a petition will not deprive the applicant of the relief, if the applicant is otherwise entitled to the relief in accordance with law. It is next submitted that though the I.O. of the case has made the prayer under Section 82 Cr.P.C. but the learned Sub-Divisional Judicial Magistrate, Rajmahal has issued the proclamation in exercise of the power under Section 84 of the B.N.S.S. So, no illegality has been committed by the learned Sub-Divisional Judicial Magistrate, Rajmahal. Hence, it is submitted that this criminal miscellaneous petition being without any merit be dismissed.

5. Having heard the submissions made at the Bar and after going through the materials in the record, it is pertinent to mention here that since the working hours of the Civil Courts is prescribed in the Civil Courts Rules in the State of Jharkhand, so appearing in court means obviously appearing during working hours of the court, as prescribed by the said rules. Therefore, when the Magistrate directs a person to appear before its court, obviously it means such person is to appear during the working hours of the court, unless otherwise specifically directed.

6. Perusal of the record reveals that the learned Sub-Divisional Judicial Magistrate, Rajmahal has given liberty to the petitioner to appear before its court within 35 days. So, this Court is of the considered view that no illegality has been committed by the learned Sub-Divisional Judicial Magistrate, Rajmahal, in respect of fixing the time and place for appearance of the accused person.

7. So far as the provision of law under which proclamation has been issued is concerned, there is no dispute that the learned Sub-Divisional Judicial Magistrate, Rajmahal has exercised the power under Section 84 of the B.N.S.S. for issuing the proclamation, therefore, wrong mentioning of the provision of law i.e. Section 82 Cr.P.C. which was the corresponding provision of Section 84 of the B.N.S.S. by itself will not make the impugned order illegal when the impugned order itself has been passed in exercise of the power vested upon the court under Section 84 of the B.N.S.S.

8. Therefore, this Court do not find any justifiable reason to accede to the prayer made in this criminal miscellaneous petition in exercise of the power under Section 528 of the B.N.S.S.

9. Accordingly, this criminal miscellaneous petition being without any merit is dismissed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 21st September, 2026
AFR/Sonu/-

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