

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 2680 of 2023

Rahul Kumar Rai

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.....

....

Petitioner

Versus

1. The State of Jharkhand

2. Anupama Singh,

....

Opp. Parties

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

.....

For the Petitioners

: Mr. Ankit Apurva, Advocate

For the State

: Mrs. Pankaj Kr. Mishra, Addl. P.P.

.....

By the Court:-

1. Heard the parties.
2. This criminal miscellaneous petition has been filed invoking the jurisdiction of this Court under Section 482 Cr.P.C. with a prayer for quashing the order dated 16.08.2023 passed by

Judicial Magistrate 1st Class, Ranchi in connection with Complaint Case No. 6190 of 2021 whereby and where under, the learned Judicial Magistrate 1st Class, Ranchi has issued proclamation under Section 82 Cr.P.C. without execution report of non-bailable warrant of arrest and without recording its satisfaction that the petitioner-accused is absconding or concealing himself to evade his arrest or fixing any time and place for appearance of the accused-petitioner.

3. It is submitted by the learned counsel for the petitioner that order dated 16.08.2023 is not passed in accordance with law as the learned Magistrate has neither recorded its satisfaction that the petitioner is absconding or concealing himself for evading his arrest nor any time and place for appearance of the petitioner-accused has been fixed by the said order. Hence, it is submitted that the same being not sustainable in law be quashed and set aside.
4. Learned Additional Public Prosecutor on the other hand vehemently opposes the prayer for quashing order dated 16.08.2023 passed by _____ learned Judicial Magistrate 1st Class, Ranchi in connection with Complaint Case No. 6190 of 2021 and submits that the very fact that the proclamation under Section 82 Cr.P.C. has been issued by the learned Magistrate shows that the Magistrate has applied its mind. 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 _____ Judicial Magistrate 1st Class, Ranchi without application of his mind and without following the requirement of law that the Court who issues the proclamation under Section 82 Cr.P.C. has to record its satisfaction that the accused of the case; in respect of whom the proclamation under Section 82 Cr.P.C. is issued, is absconding or concealing himself to evade his arrest and in case, it issues the proclamation then in the

order itself, the time and place for appearance of the accused in respect of whom proclamation under Section 82 Cr.P.C. has to be issued has to be mentioned in the order itself by which the proclamation under section 82 of the Code of Criminal Procedure is issued. But it appears that learned Judicial Magistrate 1st Class, Ranchi is not scrupulous in following the mandatory provision of law, either because of casual approach or because of ignorance of law; either of which is not the hallmark of a judicial officer. Hence, the order dated 16.08.2023 passed by learned Judicial Magistrate 1st Class, Ranchi in connection with Complaint Case No. 6190 of 2021 being not sustainable in law is quashed and set aside.

6. Before parting, it is pertinent to mention here that it does not behove a Judicial Magistrate to pass such reckless orders throwing the law to the woods and thereby unnecessary enhancing the burden of this Court. The learned Judicial Commissioner, Ranchi is directed to impress upon learned Judicial Magistrate 1st Class, Ranchi not to pass such illegal orders without adhering to the provision of law and if required,

learned Judicial Magistrate 1st Class, Ranchi be sent to Judicial Academy on Sundays to improve his basic knowledge of law.

7. The Registrar General of this Court is directed to send a copy of this order to the Judicial Commissioner, Ranchi; for compliance and report.

8. In the result, this criminal miscellaneous petition is allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 11th September, 2023
AFR/Sonu-Gunjan/-