

Schedule XLII – High Court (J) 9a [Old(M) 164.] **COURT OF SHRI KRISHNA KANT MISHRA  
CHIEF JUDICIAL MAGISTRATE, RANCHI**

Serial No.	Date of Order of proceeding	Order with signature of the court <b>Complaint Case No. 3952/2024 CNR-JHRN-0300-5673-2024</b>	Office notice taken with date
	04.03.2024	<p><b>Assistant Director through Deovrat Jha, Directorate of Enforcement Ranchi Zonal Office, Plot No.1502/B, Airport Road, Hinoo, Ranchi-834002.....Complainant</b> <b>Versus</b> <b>Hemant Soren.....Proposed accused Person</b> <b>Counsel for the Complainant : Shri Ramit Satendra, Ld. Spl P.P.</b> <b>Counsel for the Accused : xxxxx</b></p> <p>Attendance on behalf of complainant has been filed through his Ld. counsel. Today record is fixed for order after hearing the learned counsel for the complainant and same is being passed accordingly.</p> <p>Brief facts of the complaint petition is that an FIR bearing No.272/2023 dated 01.06.2023 registered u/s 465, 466, 467, 469, 471, 420, 379 &amp; 474 of IPC against accused Bhanu Pratap Prasad, Revenue Sub-Inspector, Bargai, Ranchi, on the basis of a complaint forwarded by the Circle Officer, Baragai, Mr. Manoj Kumar alleging therein that accused Bhanu Pratap Prasad, Revenue Sub-Inspector, had unlawful possession of seventeen original registers (पंजी II) pertaining to landed properties and the records in the said registers have been tampered with.</p> <p>This complaint is based on information provided by the said office u/s 66(2) of Prevention of Money Laundering Act, 2002 addressed to the Chief Secretary of Jharkhand and search was conducted on 13.04.2023 in ECIR/RNZO/18/2022 at multiple locations including two residential premises linked to Bhanu Pratap Prasad in Ranchi and Simdega, Jharkhand, resulted in the seizure of incriminating documents, including the aforementioned seventeen registers and a significant number of property deeds. The investigation revealed Bhanu Pratap Prasad's involvement in manipulating original registers and falsifying Circle Offices' records to confer undue benefits to many persons including highly placed persons and aiding them into fraudulent property acquisitions. The above fact was also corroborated from the documents and digital devices seized from his possession which revealed altering land descriptions via falsified and backdated deeds, handwritten notes,</p>	

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	<b>Contd..P/2</b> <b>04.03.2024</b>	<p>diaries and mobile phones containing evidence related to properties obtained by influential individuals were also seized during the investigation, hidden by them. It also revealed that Bhanu Pratap Prasad was an associate of Hemant Soren and he had secreted the registers pertaining to the landed properties admeasuring 8.86 acres approx in possession of Hemant Soren at his home and an image of a list of landed properties having hand written noting of Bhanu Pratap Prasad was also recovered from his mobile phone that was seized from his possession.</p> <p>During the course of investigation, seven summons dated 07.08.2023, 18.08.2023, 31.08.2023, 11.09.2023, 25.09.2023, 10.12.2023 and Letter dated 29.12.2023 u/s 50 of PMLA, 2002 were issued to Hemant Soren. All the summons were duly served despite which the proposed accused did not appear. Being aggrieved with non-compliance of the summonses, the complainant has filed the present complaint. It is stated that proposed accused has intentionally omitted to obey the summons and to attend at the place and time mentioned in the summons. It is stated that proposed accused has failed to join the investigation since 14.08.2023 which was the first date fixed for his appearance. Reliance is placed upon <b>“Bhambhia Noghanji and others v Sate of Kutch”, 1954 SCC On Line Kutch 12</b> to bring home the point that if attendance of a person summoned was made subject to queries, investigation would be indefinitely postponed and every person would avoid attendance by writing letters and at the same time maintain that the non-attendance was not willful. Reliance is placed upon case titled <b>‘Vijay Madanlal Choudhary &amp; Ors. v Union India &amp; Ors.’, 2022 SCC Online SC 929</b> in support of the case.</p> <p>Thus, it is prayed that the proposed accused be summoned for the offence under section 174 of IPC. Further, the complaint being filed by a public servant in writing, exemption from examination of the complainant and his witnesses is requested to be dispensed with.</p> <p>Heard and perused the case record. The grievance of the complainant vide the present complaint, in a nutshell, is the non-compliance of the summonses issued by the Investigation Officer in exercise of his powers under Section 50(2) of the Act. The</p>	

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Contd..P/3 04.03.2024		<p>complainant is investigating the matter registered vide ECIR/RNZO/25/2023 dated 26.06.2023. In pursuance of such investigation, a total of seven summonses were issued.</p> <p>The summons in question have been issued in respect of an ongoing investigation under the PMLA and to carry out the purposes of the Act, certain “authorities” have been created therein, Assistant Director being one of them. Under section 50 of the Act, these authorities <i>inter alia</i> have power to summon <i>any person</i> during investigation whose attendance may be considered necessary for giving evidence or to produce record. For ready reference, Section 50(2) &amp; (3) of the Act is reproduced herein below:</p> <p style="text-align: center;"><b>“50. Powers of authorities regarding summons, production of documents and to give evidence, etc :</b></p> <p style="text-align: center;"><b>(1) .....</b></p> <p style="text-align: center;"><b>(2) The Director, Additional Director, Joint Director, Deputy Director or Assistant Director shall have power to summon any person whose attendance he considers necessary whether to give evidence or to produce any records during the course of any investigation or proceeding under this Act.</b></p> <p style="text-align: center;"><b>(3) All <u>the persons so summoned shall be bound to attend in person</u> or through authorised agents, as such officer may direct, and shall be bound to state the truth upon any subject respecting which they are examined of make statements, and produce such documents as may be required.....”</b></p> <p>Thus, the persons summoned by the authorities mentioned above, are bound to comply with such summons by virtue of Section 50(3) of the Act.</p> <p>Further, Section 174 of IPC makes non-attendance in obedience to an order from a public servant a punishable offence. It states as under:</p> <p style="text-align: center;"><b>“174. <u>Non-attendance in obedience to an order from public servant</u>- Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order, or proclamation proceeding from any public servant legally competent, as such public servant, to issue</b></p>	

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	<b>Contd..P/4 04.03.2024</b>	<p><i>the same, intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;</i></p> <p><i>or, if the summons, notice, order or proclamation is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.” (emphasis supplied)</i></p> <p>The copies of the summons in questions i.e. dated 07.08.2023 requiring attendance of the proposed accused on 14.08.2023, dated 18.08.2023 requiring his attendance on 24.08.2023, dated 31.08.2023 requiring his attendance on 09.09.2023, dated 11.09.2023 requiring his attendance on 18.09.23 and rescheduled on 23.09.2023, dated 25.09.2023 requiring his attendance on 04.10.2023, dated 10.12.2023 requiring his attendance on 12.12.2023 and dated 29.12.2023 “to provide a convenient date, time and place for recording statement within 2 days of receipt of the letter in connection with the <i>investigation or proceedings under PMLA</i>” in <b><u>ECIR/RNZO/25/2023</u></b> dated <b>26.06.2023</b> issued by the then Investigating Officer Mr. Deovrat Jha, Assistant Director, Directorate of Enforcement, Ranchi have been filed along with the complaint petition. His authority to issue such summonses flows from Section 50(2) of the Act. The summonses have been addressed to the proposed accused at his official e-mail address. The deliver of such summonses is prima facie evidenced from the fact that the proposed accused sent replies to them vide letters/replies dated 14.08.2023; 24.08.2023, 09.09.2023, 18.09.23 rescheduled on 23.09.2023, 04.10.23 12.12.2023 &amp; 02.01.2024 <i>respectively</i> wherein <i>interalia</i> reasons for non-appearance were set out. By virtue of Section 50(3) of the Act, the respondent of the summonses i.e. proposed accused was legally bound to attend in person in pursuance of the same but</p>	

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	<b>Contd..P/5</b> <b>04.03.2024</b>	<p>purportedly he failed to do so.</p> <p>It is trite that at the stage of cognizance and in determining whether process needs to be issued, a Magistrate has to be satisfied only if the ingredients of the alleged offence are made out and if there are sufficient grounds for proceeding and not if there are suffering grounds for conviction. In view of the discussion held above, the complaint filed by the complainant accompanied by the supporting documents discloses all the necessary ingredients constituting the offence punishable under Section 174 of IPC. Section 63(4) of PMLA enables prosecution under Section 174 of IPC for disobedience of any direction under Section 50 of the Act. The complaint has been filed by the Assistant Director in discharge of his official duties and has been filed withing limitation. The Assistant Director is a public servant within the meaning of Section 21 of IPC by virtue of Section 40 of the Act. Thus, in view of proviso (a) Section 200 Cr.P.C. and as the complaint has been made in writing, the examination of the complaint and his witness(es) stands dispensed with.</p> <p>From the contents of the complainant and the material placed on record, <i>prima facie offence</i> under Section 174 of the <b>Indian Penal Code, 1860</b> is made out and there are sufficient grounds for proceeding under Section 204 of the <b>Code of Criminal Procedure, 1973</b> against accused <b>Hemant Soren</b>. Office is directed to issue summon for appearance of accused person.</p> <p>Put up on 03.04.24 for appearance of accused.</p> <p style="text-align: right;">(Dictated) Sd/- (Krishna Kant Mishra) C.J.M., Ranchi J.O.Code:JH00576</p>	

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