

(2011) 10 JH CK 0069

In the Jharkhand High Court

Case No : Writ Petition (Cr.) No. 281 of 2011

Ajay Amolchand Bafna @ Ajay Bafna

APPELLANT

Vs

Directorate of Enforcement

RESPONDENT

Date of Decision : 14-10-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 82

Citation : (2012) 1 JCR 142

Hon'ble Judges : Prakash Tatia, C.J

Bench : Single Bench

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the parties.
2. The petitioner has challenged the order dated 21.08.2010 passed by 1st Additional Judicial Commissioner-cum-Special Judge (PMLA). Ranchi passed in ECIR/02/ PAT/09/AD (Supplementary file), the copy of which has been placed on record as Annexure-5 as well as the proceeding initiated u/s 82, Cr.P.C (Annexure-9) and the order dated 20.06.2011, the copy of which has been placed on record as part of Annexure-9.
3. According to the learned counsel for the petitioner, the petitioner was initially summoned as witness, which is apparent from Annexure-1 dated 5.4.2010. Since the petitioner was not available in the city, the petitioner's wife responded to the said notice and informed in writing to the Authority that the petitioner will not be available up-to 30.04.2010 as the petitioner went in meditation camp and was not likely to return before 30.04.2010. It is also submitted that thereafter, no serious efforts were made by the respondent so as to petitioner can know when he is to appear. However, instead of that, order dated 21.08.2010 was passed issuing warrant of arrest treating the petitioner as accused along with six other accused persons. It is submitted that one Rohitash Krishnam @ Rohitash Krishnan and Saubhik Chattopadhyay challenged the said order dated 21.08.2010 by

preferring Cr.M.P. No. 1209 of 2010 and Cr.M.P. No. 1219 of 2010, wherein this Court allowed both the petitions and directed the petitioners to appear before the Court below within eight weeks from the date of the order with certain directions. It is also submitted that there is no merit in the case of prosecution and petitioner has been unnecessary dragged in the case of money laundering. Learned counsel for the petitioner draw my attention to the certain documents placed on record.

4. Learned counsel for the respondent-Directorate of Enforcement submitted that the petitioner is an accused and the Authority has jurisdiction to issue warrant of arrest and can initiate a proceeding u/s 82, Cr.P.C and merit of the main case cannot be gone into in this case where the challenge is only with respect to issuance of warrant of arrest and initiation of proceeding u/s 82, Cr.P.C. Learned counsel for the Directorate of Enforcement also drew my attention to the fact that petitioner has challenged the order dated 21.08.2010 before the Bombay High Court also by preferring Criminal Application No. 310 of 2011. However, this fact has been brought on record by the petitioner himself by annexing Annexure-8. According to the respondent, even on merit, the petitioner's case was rejected by the Bombay High Court and now after rejection of the case by the Bombay High Court dated 4th May, 2011 and then the petitioner has approached this Court by preferring this writ petition.

5. Perused the facts of the case and considered the submissions of learned counsel for the parties. The petitioner was aware that a notice dated 5.4.2010 was issued to him to appear before the Directorate of Enforcement and this notice was duly served on the petitioner's. Thereafter, a detailed order was passed by the authority on 21.08.2010. It is not a dispute that the concerned Authority has authority to issue warrant of arrest and the said Authority has issued warrant of arrest against seven accused persons out of which two of the accused persons approached this Court by preferring Cr.M.P. No. 1209 of 2010 and Cr.M.P. No. 1219 of 2010. wherein this Court allowed both the petitions and directed the petitioners to appear before the Court below within eight weeks from the date of the order with certain directions. But that is not the law laying down by the Co-ordinate Bench that in all facts and circumstances for all accused persons similar order can be passed. For not passing the similar order In this case reasons are that the those two petitioners. Rohltash Krishnam @ Rohltash Krishnan and Saubhik Chattopadhyay, approached this Court immediately after the impugned order was passed i.e., within a period of one month and the present petitioner first approached the Bombay High Court by preferring Criminal Application No. 310 of 2011 to challenge the order dated 21.08.2010 for cancellation of warrant of arrest but his application was dismissed on merits and now the petitioner has approached this Court in the year 2011 by moving this application on 11.10.2011. The delay itself is sufficient ground for noninterference in the matter where process u/s 82, Cr.P.C in the case of money laundering has been Issued having serious allegations In the complaint.

In that view of the matter, the writ petition, having no merit is accordingly dismissed.