
(2025) 12 JH CK 1904

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 3621 Of 2025

Jay Prakash Roy @ Jai Prakash Rai @ Paltu Rai

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 15-12-2025

Acts Referred:

Bhartiya Nagrik Suraksha Sanhita, 2023 — Section 528
Code of Criminal Procedure, 1973 — Section 82

Citation : (2025) 12 JH CK 1904

Hon'ble Judges : Anil Kumar Choudhary, J

Bench : Single Bench

Advocate : Jasvinder Mazumdar, P.K. Chatterjee

Final Decision : Allowed

Judgement

Anil Kumar Choudhary, J

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 02.12.2025 passed by the learned Judicial Magistrate 1st Class, Dhanbad in connection with Dhanbad (Mahila) P.S. Case No.19 of 2025 whereby and where under, the learned Judicial Magistrate 1st Class, Dhanbad has issued the proclamation under Section 82 of Cr.P.C. without fixing any time and place for appearance of the petitioner.

3. It is submitted by the learned counsel for the petitioner that vide order dated 02.12.2025, the learned Judicial Magistrate 1st Class, Dhanbad has committed a grave error by not fixing any time or place for the appearance of the petitioner who is the accused person of the case while issuing the proclamation under Section 82 of Cr.P.C. therefore, the same is not in accordance with law. Hence, it is submitted that the prayer as made in this criminal miscellaneous petition be allowed.

4. Learned Special Public Prosecutor on the other hand opposes the prayer and submits that even though the time and place for appearance of the petitioner have not been specifically mentioned but it is apparent that the petitioner has to appear before the court below after 30 days from the date when the proclamation under Section 82 of Cr.P.C. is made. 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 by now it is a settled principle of law that the court which issues the proclamation under Section 82 of Cr.P.C. must record its satisfaction that the accused in respect of whom the proclamation under Section 82 of Cr.P.C. is made, is absconding or concealing himself to evade his arrest and in case the court decides to issue proclamation under Section 82 of Cr.P.C., it must mention the time and place for appearance of the petitioner in the order itself by which the proclamation under Section 82 of Cr.P.C. is issued.

6. Now coming to the facts of the case, this Court finds that without fixing any time or place for appearance of the petitioner who is the accused person of the case concerned, learned Judicial Magistrate 1st Class, Dhanbad has passed the order dated 02.12.2025 in connection with Dhanbad (Mahila) P.S. Case No.19 of 2025. Hence, the same is not sustainable in law and the continuation of the same will amount to abuse of process of law and this is a fit case where the order dated 02.12.2025 passed by the learned Judicial Magistrate 1st Class, Dhanbad in connection with Dhanbad (Mahila) P.S. Case No.19 of 2025 be quashed and set aside qua the petitioner.

7. Accordingly, the order dated 02.12.2025 passed by the learned Judicial Magistrate 1st Class, Dhanbad in connection with Dhanbad (Mahila) P.S. Case No.19 of 2025, is quashed and set aside qua the petitioner.

8. The learned Judicial Magistrate 1st Class, Dhanbad may pass a fresh order in accordance with law.

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