
(2021) 07 JH CK 0015

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 443 Of 2021

Mukul Gupta

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 02-07-2021

Acts Referred:

Negotiable Instruments Act, 1881 — Section 138
Code Of Criminal Procedure, 1973 — Section 82, 83, 299

Citation : (2021) 07 JH CK 0015

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Bhaskar Trivedi, Bhaskar Trivedi

Final Decision : Disposed Of

Judgement

Sanjay Kumar Dwivedi, J

This petition has been heard through Video Conferencing in view of the guidelines of the High Court taking into account the situation arising due to

COVID-19 pandemic. None of the parties have complained about any technical snag of audio-video and with their consent this matter has been

heard.

The petitioner has filed this petition for quashing orders dated 19.08.1999 whereby non-bailable warrant has been issued against the petitioner and order

13.04.2000 whereby process u/s 82 Cr.PC has been issued against the petitioner and order dated 08.12.2000 whereby the petitioner has been declared

absconder and process u/s 299 Cr.PC has been issued against the petitioner.

The learned counsel for the petitioner at the outset submits that the petitioner is ready to pay the amount in question which is subject matter of the

criminal proceeding under section 138 of Negotiable Instruments Act along with interest. He submits that non-bailable warrant has been issued. There

is no report of service of earlier notice upon the petitioner and there is no report of execution of bailable warrant and straight way process u/s 82 and

83 Cr.PC have been issued.

The learned State counsel has opposed the prayer of the petitioner and submits that there is no illegality in the impugned orders.

On perusal of the impugned orders, it transpires that there is no execution of bailable warrant against the petitioner and non-bailable warrant has been

issued by order dated 19.08.1999 and in absence of execution report of non-bailable warrant and by order dated 13.04.2000 process under sections 82

and 83 Cr.PC both have been issued. Order dated 13.04.2000 is not in terms of section 82 and 83 Cr.PC as the requirement of satisfaction is not

disclosed. Moreover, the guidelines of this Court as held in the case of *â??Md. Rustum Alam @ Rustam v. State of Jharkhand* *â?* reported in 2020

(2) JLJR 712 has not been followed.

Accordingly, orders dated 19.08.1999, 13.04.2000 and 08.12.2000 are quashed.

The matter is remitted back to the court below to proceed afresh strictly in terms of Cr.PC and the guidelines as held in the case of *â??Md. Rustum*

Alam @ Rustam v. State of Jharkhand *â??* reported in 2020 (2) JLJR 712 .

Cr.M.P. No. 443 of 2021 is disposed of.