

(2026) 08 JH CK 3717
In the Jharkhand High Court
Case No : Cr.M.P. No.2334 of 2026

Naresh Kumar Mehta @ Naresh Mehta	APPELLANT
Vs	
The State Of Jharkhand	RESPONDENT

Date of Decision : 03-08-2026

Acts Referred:

Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 528
Cr.P.C. — Section 82, 83

Citation : (2026) 08 JH CK 3717

Hon'ble Judges : Anil Kumar Choudhary, J

Bench : Single Bench

Advocate : Mr. Kripa Shankar Nanda, Mr. Prabir Kr. Chatterjee

Final Decision : Allowed

Judgement

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- Heard the parties.

2. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 with twin prayers, i.e., to quash the orders dated 20.02.2013 and 26.08.2013 passed by the learned Chief Judicial Magistrate, Hazaribagh in connection with Sadar (Mufassil) P.S. Case No.291 of 2012 corresponding to G.R. Case No.1174 of 2012 whereby and where under the learned Chief Judicial Magistrate, Hazaribagh has directed for issuance of the proclamation under Section 82 of Cr.P.C. and under Section 83 of Cr.P.C. respectively *inter alia* against the petitioner.

3. At the outset, learned counsel for the petitioner submits that the petitioner does not press the prayer to quash the order dated 26.08.2013 passed in the said case because as yet no property of the petitioner has been attached in connection with the said case.

4. Accordingly, the prayer to quash the order dated 26.08.2013 is rejected as not pressed.

5. So far as the order dated 20.02.2013 passed in the said Sadar (Mufassil) P.S. Case No.291 of 2012 corresponding to G.R. Case No.1174 of 2012 is concerned, the learned counsel for the petitioner submits that it is a settled principle of law that the court which issues the proclamation under Section 82 of Cr.P.C., must mention the time and place for appearance of the accused in the order itself by which the proclamation under Section 82 of Cr.P.C. is issued but learned Chief Judicial Magistrate, Hazaribagh has failed to mention the time and place for appearance of the petitioner, who is the accused person of the said Sadar (Mufassil) P.S. Case No.291 of 2012 corresponding to G.R. Case No.1174 of 2012, hence, the impugned order dated 20.02.2013 passed by the learned Chief Judicial Magistrate, Hazaribagh in connection with Sadar (Mufassil) P.S. Case No.291 of 2012 corresponding to G.R. Case No.1174 of 2012, is not sustainable in law. Hence, it is submitted that the same be quashed and set aside.

6. Learned Spl. P. P. appearing for the State on the other hand vehemently opposes the prayer of the petitioner and submits that since it is expected that the accused person in respect of whom the process under Section 82 of Cr.P.C. is issued, is required to appear before the court concern after thirty (30) days of the proclamation, hence, no illegality has been committed by the learned Chief Judicial Magistrate, Hazaribagh. Hence, it is submitted that this Cr.M.P., being without any merit, be dismissed.

7. Having heard the rival submissions made at the Bar and after carefully going through the materials available 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 the proclamation under Section 82 of Cr.P.C. it must mention the time and place for appearance of the accused in the order itself by which the proclamation under Section 82 of Cr.P.C. is issued. As already indicated above since the learned Chief Judicial Magistrate, Hazaribagh has neither recorded its satisfaction that the petitioner is absconding or concealing himself to evade his arrest nor fixed any time or place for appearance of the petitioner, this Court has no hesitation in holding that the learned Chief Judicial Magistrate, Hazaribagh has committed a grave illegality by issuing the said proclamation under Section 82 of Cr.P.C. without complying with the mandatory requirements of law. Hence, the same is not sustainable in law and the continuation of the same will amount to abuse of process of law. Therefore, this is a fit case where the impugned order dated 20.02.2013 passed by the learned Chief Judicial Magistrate, Hazaribagh in connection with Sadar (Mufassil) P.S. Case No.291 of 2012 corresponding to G.R. Case No.1174 of 2012, be quashed and set aside *qua* the petitioner named above.

8. Accordingly, the impugned order dated 20.02.2013 passed by the learned Chief Judicial Magistrate, Hazaribagh in connection with Sadar (Mufassil) P.S. Case No.291 of 2012 corresponding to G.R. Case No.1174 of 2012, is quashed and set aside *qua* the petitioner named above.

9. The learned Chief Judicial Magistrate, Hazaribagh or its successor court may pass a fresh order in accordance with law.

10. Accordingly, this Criminal Miscellaneous Petition, is allowed.