
(2018) 02 CHH CK 0267
In the Chhattisgarh High Court
Case No : Acquittal Appeal No.205 Of 2010

State Of Chhattisgarh

APPELLANT

Vs

Poonam Bai

RESPONDENT

Date of Decision : 15-02-2018

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 378, 390

Citation : (2018) 02 CHH CK 0267

Hon'ble Judges : Prashant Kumar Mishra, J; Ram Prasanna Sharma, J

Bench : Division Bench

Advocate : R.K. Mishra, Awadh Tripathi

Final Decision : Allowed

Judgement

On 12.2.2018, this Court observed that despite issuance of non- bailable warrant against respondent Poonam Bai for her production before this Court

on 12.2.2018, there was no information about execution of the warrant. It was also noted that the warrant of arrest issued under the signature of the

Additional Registrar (Judicial) has directed the Superintendent of Police to arrest the respondent and produce her before the Additional Sessions

Judge, Balod. This Court, thereafter, sought an explanation from the Additional Registrar (Judicial) as to why incorrect warrant of arrest was issued

which runs contrary to the judicial order passed by this Court.

Additional Registrar (Judicial) has submitted an explanation in this regard.

The explanation submitted by the Additional Registrar (Judicial), would quote the provision contained in Section 390 Cr.P.C. which reads as follows:

When an appeal is presented under Section 378, the High Court may issue a warrant directing that the accused be arrested and brought before it or

any subordinate Court, and the Court before which he is brought may commit him to prison pending the disposal of the appeal or admit him to bail.

It is also explained by the Additional Registrar (Judicial) that the proforma maintained for issuance of warrant of arrest against the acquitted accused

is in two parts, the first part directing arrest and production before the subordinate Court and the latter part directing for production before the High

Court. However, there is no prescribed format under the High Court of Chhattisgarh Rules, 2007.

The format appended with the explanation offered by the Additional Registrar (Judicial) appears to be not in consonance with the provisions contained

in Section 390 Cr.P.C. The said provision directs for arrest and production of an acquitted accused before the High Court or any subordinate Court.

Therefore, when the High Court directs for arrest and production on a particular date but the accused is arrested few days prior to the said date, then

also format should say in same paragraph that the accused be first presented before the concerned subordinate Court and thereafter, before the High

Court on the given date. The format should not be in two parts because the same creates confusion in the mind of the arresting authority. Production

before any subordinate Court is only for seeking authorization for sending him to prison in compliance of the provision contained under Section 390

Cr.P.C.

Let fresh format be prepared accordingly for use henceforth. In compliance of the order passed by this Court on 17.1.2018, respondent Poonam Bai

has been produced before this Court by Constable No. 1338, Ms. Arti Dubey. On behalf of the respondent, an application for grant of bail bearing

I.A.No.1/2018 has been preferred on the ground that the respondent has already been acquitted, however, the warrant of arrest was issued on

account of the fact that the respondent was not represented before this Court on 17.1.2018.

It is submitted by learned counsel for the respondent that because of some confusion, the matter could not be attended which is bonafide and there

was no intention to avoid the hearing of the appeal.

On due consideration, I.A.No.1/2018 for grant of bail is allowed.

Let the respondent be released on bail on her submitting a personal bond for sum of Rs.10,000/- before the Additional Registrar (Judicial).

List the matter for final hearing in week after next.