



BRPA010086532026

IN THE COURT OF SESSIONS JUDGE, PATNA
Criminal Revision No. 340 of 2026

Raj Kumar, S/o Kapil Dev Prasad
Proprietor Sri Raj Traders, Rahman Market,
Hospital Road, Siwan.
R/o:- Mohalla- Shastri Nagar, P.S.- Siwan, District- Siwan

.....Petitioner

Versus

1. The State of Bihar
2. Vardhan Singh, S/o Sri Birendra Singh,
C & F Agent, RPG, Life Science Ltd.
R/o:- 4N/105, Bhootnath Road, P.S.- Agamkuan, District- Patna

..... Opposite Parties

Counsel for the Petitioner :- Sri Chandra Shekhar Kr. Singh, Advocate
Counsel for the State :- Sri Rajesh Kumar, P.P.

ORDER

23.06.2026

1. The present criminal revision has been filed on behalf of the **petitioner, Raj Kumar, accused in C.A. No.1250/2013**, challenging the order dated 28.07.2022, initiating proceedings under Section 83 of the Code of Criminal Procedure, 1973 ("Cr.P.C.") for attachment of his property.
2. This Court has examined the grounds advanced in the application seeking condonation of delay and finds adequate justification therefor. Considering the paramount interest of justice, the delay in filing this revision is condoned. Accordingly, this petition has been entertained and is adjudicated on merits.
3. The submissions of learned counsel for the petitioner and the learned

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Public Prosecutor for the State have been considered. The documents annexed to the petition, along with the trial court record, have also been perused.

CONTENTIONS OF THE PETITIONER

4. The learned counsel for the petitioner contends that the impugned order suffers from serious factual and legal infirmities, having been passed without adherence to statutory procedure and without proper judicial application of mind.
5. It is argued that the trial court initiated proceedings under Sections 82 and 83 Cr.P.C. without ensuring valid service of summons or proper execution of bailable and non-bailable warrants.
6. The petitioner asserts that he was unaware of any summons or process issued by the court and undertakes to appear before the trial court within fifteen days.
7. Learned counsel submits that the issuance of warrant of arrest and subsequent proceedings under Sections 82 and 83 Cr.P.C. are unsustainable in law, absent any report establishing evasion of appearance.

CONTENTIONS OF THE STATE

8. The learned Public Prosecutor concedes that the trial court initiated proceedings under Sections 82 and 83 Cr.P.C. without ensuring proper service of summons and execution of warrant of arrest.
9. It is emphasized that accused persons often attempt to delay trials by evading service of process despite being aware of pending proceedings.
10. The State submits that the petitioner's non-appearance compelled the trial court to resort to coercive measures. However, the petitioner may now be directed to appear before the trial court within a fixed time frame.

FACTUAL MATRIX

11. The trial court record reveals that cognizance was taken of offences under Sections 406, 420, 379 of the Indian Penal Code and Section 138

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of the Negotiable Instruments Act, 1881. Summons were issued to the petitioner but remained unserved. Consequently, a bailable warrant of arrest was issued, followed by a non-bailable warrant of arrest. Thereafter, proceedings under Sections 82 and 83 Cr.P.C. were initiated against the petitioner.

LEGAL INFIRMITIES IN THE IMPUGNED ORDER

12. Upon scrutiny of the trial court record, it is apparent that the proceedings initiated under Section 83 Cr.P.C. for the attachment of the petitioner's property were not supported by an affidavit. The Hon'ble Patna High Court, in *Krishna Murari Yadav v. The State of Bihar and Others*, 2005(3) PLJR 746, has clearly propounded that applications under Sections 73, 82, and 83 Cr.P.C., if not accompanied by an affidavit, are legally unsustainable. Consequently, the order passed under Section 83 Cr.P.C. for the attachment of the petitioner's property stands vitiated on this ground alone.
13. Furthermore, Rule 109(B) of the Bihar Police Manual mandates that any application under Section 83 Cr.P.C. must be accompanied by a specific and detailed list of properties proposed for attachment. In the present case, this procedural requirement has been wholly neglected, as the proceedings initiated under Section 83 Cr.P.C. contain no such list of properties. This omission constitutes a serious procedural defect that renders the entire order legally unsound and susceptible to judicial intervention. The impugned order dated 28.07.2022, being devoid of the requisite procedural compliance, is declared invalid and liable to be set aside.

CONCLUSION

14. Upon the foregoing analysis and in light of the established legal principles, this Court finds that the impugned order dated 28.07.2022 is afflicted with grave legal infirmities and lacks essential procedural safeguards. Accordingly, this criminal revision application is **allowed**. The impugned order dated 28.07.2022 passed by the learned SDJM,

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Patna City, initiating proceedings under Section 83 Cr.P.C. for the attachment of the petitioner's property, is **hereby set aside**.

15. The petitioner is directed to appear before the learned trial court within fifteen (15) days from the date of receipt of a copy of this order by the trial court. Upon such appearance, it shall be deemed that the petitioner has responded to the process and summons issued by the trial court, and the trial court shall proceed with the matter in accordance with law, without further resort to coercive measures under Sections 82 and 83 Cr.P.C.

(Dictated)
Sd/-

(Rupesh Deo)
Sessions Judge, Patna

Date of Order	23.06.2026
Date of Reserving Order	17.06.2026
Uploading Date	23.06.2026
Uploaded by	Vinod/-