

**IN THE COURT OF DISTRICT & ADDITIONAL SESSIONS JUDGE-VIII,
SARAN/CHAPRA
Cr. Rev. No. 203/2026**

(Criminal revision arising out from the order dated 14.10.2025 passed by Ld.ACJM-VIII Saran at Chapra in Trial No 1840/2025)

IN THE MATTER OF:

1. Janaki Devi,
2. Manoj Kumar,
3. Indu Devi,
4. Madan Sah,
All R/o Narayan Chowk,
PS Marhowrah
District- Saran.

.....Petitioners

Versus

State of Bihar

PRESENT:

Anil Kumar Bhardwaj
District & Addl, Session Judge VIII
Saran At Chapra
24.07.2026

ORDER

- 1) That the petitioners herein are the accused who are facing trial in the above captions case and they are assailing the order dated 14.10.2025 passed by ACJM-VIII, Saran at Chapra in this case whereby they were declared proclaimed absconder.
- 2) Brief fact of this case which are necessary for disposal of this petition is that the case was registered against the petitioners for the offence U/s 498(A) and summons were issued on which they surrendered before the court and obtain regular bail on 05th

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November 1996 and they continuously to defend their case until 24th March 2022 on the said dates charges were framed against them in their presence. On 03.09.2025, the Ld. Trial Court passed an order stating that proceedings under B.W. N.B.W. and sections 82 and 83 of the Cr.P.C. have been completed, yet the accused are absent and the case is more than 30 years old so put the case for appearance on 14.10.2025 and on the said date i.e. on 14.10.2025, the court passed an order that the case was taken cognizance of under Section 498 (A) of Indian Penal Code on 02.09.1996 against 1. Lakhi Sah, 2. Janaki Devi, 3. Madan Sah and 4. Indu Devi. All the accused have not appeared till date. Warrant of arrest and U/S-82 and 83 CrPC have been issued against them. Still they did not appear and in such a situation, the accused Lakhi Sah, Janaki Devi, Madan Sah and Indu Kunwar have been declared absconding and the A.P.O. has been directed to produce evidence under Section 299 Cr.P.C. and the Ld. Trial court has declared them absconder and issued a permanent warrant to directed to consigned in record room.

- 3) That the said impugned order is assailed by them on many grounds mainly;
- i) That the impugned order made without due process of law and is not in the light of the correct facts and on wrong observation that the petitioners have not appeared in this case after the cognizance, whereas the accused/petitioners appeared in the court on the summons of the cognizance case and got their bail on 05.11.1996 itself and have been defending their case regularly for 30 years.*
 - ii) That due to the slow pace of the court, the decision was not given in 30 years and the charge was framed on 24.03.2022 and Corona period was still ongoing and one of the co-accused namely Lakhi Shah died due to Corona.*

- iii) The accused/petitioners were devastated and shocked by the death of the co-accused, and the case was abandoned, when they make inquiry at the court, they discovered that the records had been moved between several courts, resulting in an inaccurate date and they have not deliberately abandoned the case but have been pursuing the case for the last 30 years.*
- iv) The Court's order dated 14.10.2025 is erroneous in law. This order was without a service report or order. After the order dated 24.03.2022, no B.W., N.B.W., proof of orders 82 and 83, or service reports are on record.*
- v) The complaint is a case under Section 192 of the CrPC, which has nothing to do with the police station or the APO. However, the court, in its impugned order has treated it a police case.*
- vi) That the impugned order is liable to be set aside as it is an error of law and the accused/petitioner wish to appear before the court and present their case properly.*
- 4) That the notice of this revision petition was served upon the respondent/OP and Ld PP appeared before this court and argued at length and seeking to dismissal of the revision being devoid of merit.
- 5) I have heard the counsels of the parties at length and perusal the case record and formulated the following questions.
- i) Whether the Ld Trial Court committed an error while declaring the petitioner as absconder?
- ii) Whether the impugned order is liable to be set aside or it needs no interference?
- 6) Now let me examine the material on record before the Ld Trial and the principal contention of the petitioners are that the Ld. Trial Court issued proclamation U/s 82 Cr.P.C. and attachment U/s 83 Cr.P.C. on the very same day without there being any execution report of the NBW and without recording its judicial satisfaction about the fact that the accused person had absconded or were concealing themselves to avoid

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execution of the warrants. A perusal of the impugned order reveals that NBW were issued against them on 20.06.2017 however, before any execution report regarding the warrants was received and without any material indicating that the accused had absconded or was deliberately avoiding execution of the warrants, the Ld. Trial Court proceeded to issue process under Sections 82 and 83 CrPC simultaneously.

7) The Section 82 of code mandates that before issuing a proclamation, the Court must record its satisfaction that the person against whom the warrant has been issued has absconded or is concealing himself so that such warrant cannot be executed. Such satisfaction has to be based upon material available on record and cannot be presumed. The Hon'ble Supreme Court in *Inder Mohan Goswami v. State of Uttaranchal* emphasized that coercive processes such as non-bailable warrants and proclamation should not be issued mechanically and the Courts must exercise utmost caution before depriving a person of his liberty and it is equally well settled that attachment under Section 83 of code is consequential to the issuance of a valid proclamation under Section 82 of code. Although Section 83 permits attachment simultaneously with proclamation in appropriate cases, such power can be exercised only upon recording specific reasons in writing demonstrating the necessity for immediate attachment. In the absence of such reasons, simultaneous issuance of attachment is legally unsustainable.

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- 8) In the present case, the impugned order neither records any satisfaction that the accused had absconded or were concealing themselves nor refers to any execution report of the Non-Bailable Warrants. There is also no reason recorded warranting simultaneous attachment under Section 83 CrPC.
- 9) The impugned order, therefore, reflects complete non-application of judicial mind and is contrary to the mandatory provisions contained in Sections 82 and 83 CrPC as interpreted by the Hon'ble Supreme Court.
- 10) Accordingly, the revision petition deserves to be allowed. The impugned order dated 14.10.2025 passed by the Ld. Trial Court declaring the accused/petitioners is hereby **set aside**. The matter is remanded to the Ld. Trial Court for passing a fresh order in accordance with law and the petitioners are directed to appear before the Ld. Trial Court on each and every date of hearing and will make proper representation and will co-operate for expedite disposal of this case.
- 11) Trial Court Record be sent back forthwith along with a copy of this order and this revision petition be file be consigned to the Record Room after due compliance.

ANIL KUMAR BHARDWAJ Digitally signed by ANIL
KUMAR BHARDWAJ
Date: 2026.07.24
14:33:07 +05'30'

(Anil Kumar Bhardwaj)
D & ASJ-VIII, SARAN

Date of Judgment/Order	24.07.2026
Date of Reserving Judgment/Order	22.07.2026
Uploaded on	24.07.2026
Uploaded by	Rachana.