

BRSR010075542026



In the Court of Sessions Judge, Saran at Chapra

Present:

Puneet Kumar Garg,
Sessions Judge,
Saran at Chapra.

Chapra, dated 06th June, 2026

[Criminal Revision No. 206 of 2026]

1. Om Prakash Singh, Son of Birendra Singh,
2. Birendra Singh, Son of Late Shesha Singh,
Both resident of village – Baldih,
P.S. - Darauda, District – Siwan.
At Present residing at Kolkata, West Bengal.

..... Revisionists.

Versus

1. The State of Bihar,
2. Soni Devi,
Daughter of Shivjee Kuer,
Wife of Om Prakash Singh,
Resident of village – Mohammadpur,
P.S. - Manjhi, District – Saran.

..... Opposite Parties.

Counsel for the Revisionists :- Dr. Amit Ranjan, Advocate.
Counsel for the State :- Sri Sarabjeet Ojha, P.P.

ORDER

06.06.2026

1. This revision petition has arisen against the order dated 27.04.2026 passed by the court of S.D.J.M., Saran in Trial No.- 211/2026 arising out of Complaint Case No. 3699/2010 wherein the accused was declared absconder by the learned Court-below.

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2. As per complaint petition of one Soni Devi, on 10.05.2009 she was married with accused Om Prakash Singh according to Hindu rite and rituals. Her father gave him Rs. 1,00,000/- (One lac) utensils, cloth and golden chain and ring as gift. After marriage the accused-persons demanded Hero Honda Motorcycle and colour T.V. and on non-fulfilment of their demand, they assaulted the complainant.
3. The learned Trial Court after taking cognizance under section 498(A) of the IPC against accused namely Om Prakash Singh, Birendra Singh and Ramdularo Devi, issued summon, B.W. and N.B.W. against the accused-Persons. The proceeding under sections 82 and 83 Cr.P.C. was also initiated against the said accused persons and ultimately on 27.04.2026 the accused-persons were declared absconder by the learned Trial Court. The said order dated 27.04.2026 is under challenge before this Court.
4. The case of petitioners is that learned Trial Court declared them as absconder after issuing all the process including summon, warrant and after initiating the proceedings of Section 82-83 of Cr.P.C. It is further stated by the petitioners that they could not appear and defend his case as they were not aware regarding the aforesaid processes issued by the court as neither of the said process as issued by the Trial Court was served upon them. Further that learned Trial Court failed to appreciate the fact that during the pendency the matter, a holistic compromise was arrived between petitioner No. 1 (husband) and opposite Party No. 2 (Wife) and pursuing the said amicable settlement, both parties resumed their conjugal relationship, lived together peacefully, and out of the said wedlock, two children were born who are currently in their care. Consequently, the Complainant herself stopped appearing before Trial Court, as the underlying disputes stood completely resolved. It is further case of petitioners is that learned Trial Court did not consider the fact that no service report of any process as aforesaid was ever received in the court and despite the same the learned Trial Court proceeded against the petitioners and declared them absconder vide order dated 27.04.2026.
5. The Counsel for the petitioner appeared and argued as aforesaid. The

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Learned P.P. submitted that the petitioner is trying to take undue advantage of the technicalities of law. He submitted that the petitioner was very much aware about the pendency of the criminal case against him, but was evading appearance before the court and, thus, the court was left with no other option but to take coercive steps against him in order to secure his attendance before the Court.

6. Under the power of revision this court is to examine the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of the any proceeding of learned lower court. **The Hon'ble Supreme Court in Sanjaysinh Ramrao Chavan Vs. Dattatray Gulabrao Phalke & Others,(2015) 3 SCC 123**, held that Revisionist court can interfere with the findings of fact of the lower court only when the same is perverse and not merely when another view is also possible.
7. On perusal of record it transpired that there is no service reports of the issued process are on the record. The Learned Trial Court issued the processes one after the other without waiting the service report or ignoring the fact that service report of any of the process has been received or not.
8. The Hon'ble High Court of Patna in **Sanjay Kumar vs State Of Bihar & Anr Criminal Miscellaneous No.629 of 2018** observed that “ *It would be pertinent to note here that basic purpose of Criminal Procedure Code is to ensure fair trial where none of the rights of the accused are compromised nor are they unjustifiably favoured. In order to ensure presence of the parties who are relevant to the trial before the Judge concerned, it is important to follow the procedure prescribed for their appearance.*”
9. In order to ensure presence of the parties who are relevant to the trial before the Judge concerned, it is important to follow the procedure prescribed for his appearance. Chapter-VI of the Cr.P.C. sets out the procedure to ensure appearance of the accused. If it is found that summonses are received by the accused and still he fails to appear before the court it would be a gross case of disobedience of the order of the court and in that case, it would be the duty of the Learned Trial Court to issue

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warrant, if necessary non-bailable to ensure the presence of the accused in the Court.

10. On perusal of the order-sheet, it is manifest that in absence of service report of Non bailable warrants, the Learned Court passed orders directing to issue processes under Sections 82 Cr.P.C. and subsequently under section 83 of the Cr.P.C. against the accused. Further The Learned Trial Court without waiting any report of proceedings initiated under section 83 of the Cr.P.C., declared him absconder vide order dated 27.04.2026.
11. This Court has noted that there is nothing on the record to show that the Learned Trial Court took any steps to enforce the service of warrants of arrest or took any action against those who were entrusted with the duty to serve processes issued by the Court.
12. Considering the above, it appears that the orders passed by the learned trial court are clearly in violation of the mandatory provisions prescribed under the Cr.P.C. and/or the direction of the Hon'ble Court.
13. In view of the aforesaid discussion, this revision petition is hereby **allowed**, and the order dated 27.04.2026 is hereby set-aside. The Learned Trial court is directed to proceed in accordance with law. The LCR be sent herewith.

[Dictated]

(Puneet Kumar Garg),
Sessions Judge, Saran
06.06.2026