

**In the Court of Motish Kumar Singh Principal District & Sessions Judge,
Siwan.**

Criminal Revision No. 153/2026
Barharia P.S Case No.139/2026

Mohammad Aftab@ Aftab Ali & Others.....Revisionists.
Versus

(1) The State of Bihar
(2) Azad Ahmad

.....Opposite party.

ORDER

29.07.2026

Present: Learned P.P for state, learned counsel for revisionists/petitioners and learned counsel for the O.P No. 2.

1. Learned counsel for the petitioners submits that from perusal of execution report of process of Section 84 BNSS (corresponding to Sec. 82 of Cr.P.C), it would become evidently clear that the same has not been legally executed, rather same have been returned to Learned Court below with an endorsement that accused persons are absconding on account of fear of being arrested. Learned counsel further submits that the scheme of Section 84 BNSS (corresponding to Sec. 82 of Cr.P.C) is to make the people aware in the local area about wanted accused persons. However, ignoring the spirit of Section 84 BNSS (corresponding to Sec. 82 of Cr.P.C), learned Court below had issued process of Section 85 BNSS (corresponding to Sec. 83 of Cr.P.C) against the accused persons vide impugned order dated 19.06.2026. Thus, the impugned order is completely illegal and arbitrary in nature, and the same is liable to be set-aside.

2. On the other hand, Learned counsel for O.P. No. 2 as well as Learned P.P submits that accused persons are having knowledge about the fact that they are wanted in the present case. However, they are not cooperating with the investigating agencies and kept absconding only with intention to cause delay in the investigation of the case and therefore, process of Section 85 BNSS (corresponding to Sec. 83 of Cr.P.C) was rightly issued, so that the presence of accused persons may be coerced. Thus, Learned PP as well as Learned counsel for O.P. No. 2 submits that present revision petition deserves dismissal.

3. Heard. From perusal of record, this Court finds that execution report of process Section 84 BNSS (corresponding to Sec. 82 of Cr.P.C) is available on record. However, from perusal of execution report, it transpires that the same was not executed, rather the same had been returned with endorsement that accused persons are absconding due to fear of their being arrested. Since, process of Section 84 BNSS (corresponding to Sec. 82 of Cr.P.C) could

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not be executed as per law, hence issuance of Section 85 of BNSS (corresponding to Sec. 83 of Cr.P.C) was not in consonance with the scheme of Section 84 and 85 of BNSS (corresponding to Sec. 82 and 83 of Cr.P.C).

4. Therefore, present revision petition is **allowed** and order dated 19.06.2026 passed by Learned Court of A.C.J.M-III, Siwan is hereby **set-aside**.

5. However, it is made clear that since the accused persons are wanted, therefore police has full authority and they are at liberty to proceed as per law for securing their presence before the Learned Court.

6. The Learned Court may issue fresh processes under Section 84 BNSS (corresponding to Sec. 82 of Cr.P.C), and only after the same is being executed as per law, the further steps shall be taken in this matter.

7. Since, the accused persons are aware of this fact that they are wanted in the concerned case, therefore, they may surrender before Learned Court below, if so advised.

8. Office is directed to send the Lower Court record along with one copy of this order to the Court concerned.

9. Office is further directed to consign record of this case to record room after necessary compliance.

10. It is not out of place to mention herein that learned Magistrate should have issued processes under corresponding provisions of BNSS and not under Cr.P.C because present case relates to an F.I.R lodged in the year 2026. Learned Magistrate is expected to remain vigilant in this aspects.

(Dictated)

S/d-

(Motish Kumar Singh)
Sessions Judge, Siwan
29.07.2026

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