

**In The Court of Sessions Judge,
Vaishali, Bihar 844101.
Distt. - Vaishali, BIHAR.**

Criminal Revision No. 199 of 2025

Arising out of Complaint Case No. 1728 (C) of 2003/T.R.2377 of 2024

Amar Nath Prasad S/o Late Alkeshwar Prasad
R/o Village- Miya Bidha Shekhpura, Sarai, Police Station- Barbigha, District-
Shekhpura. Present Address : - Mohalla – Pokhara Mohalla, P.S. - Hajipur
Town, District – Vaishali.

.....The Revisionist

vs

1. The State of Bihar
2. Indu Devi wife of Nanda Thakur, resident of Pokhra Mohalla, P.S. - Hajipur
Town, District Vaishali

.....The Opposite Parties

The criminal revision has been preferred by the revisionist against the issuance of permanent warrant order dated 02.07.2025 passed by Learned Sujata Kumari, Judicial Magistrate 1st Class Hajipur, in Complaint Case No. 1728(C) of 2003 (Indu Devi vs Angad Ram and another) whereby and whereunder the learned Court has issued permanent warrant against the accused persons/revisionist.

*Counsel for the Revisionists: Learned Adv. Sri Ashok Kumar Singh
Counsel for the Opposite Party No.1: Learned P.P. Sri Shyam Babu Rai*

Dated- 1st. April 2026

Present- Harshit Singh.

J u d g e m e n t

1. The criminal revision has been preferred by the revisionist against the issuance of permanent warrant order dated 02.07.2025 passed by Learned Sujata Kumari, Judicial Magistrate 1st Class Hajipur, in Complaint Case No. 1728(C) of 2003 (Indu Devi vs Angad Ram and another) whereby and whereunder the learned Court has issued permanent warrant against the accused person/revisionist.

2. Heard learned Counsel for Revisionist and Learned Public Prosecutor for the State. Notice for appearance of opposite party OP no.2 was issued but returned unserved as the address of the O.P. no.2 was not correct.

3. The relevant facts for consideration of the revision petition are, in brief, as follows: –

a. Prosecution case in brief is that, the present complaint case has been filed by

complainant Indu Devi stating herein that the complainant works as a maid at the accused's house, washing dishes in the mornings and evenings. The accused persons are contractors working for the railways, and they repeatedly tempted the complainant with the promise of a job in the railways and asked her to go with them to Gorakhpur. However, the complainant refused due to her suspicion of their intentions. On the day of the incident, when the complainant was at her home, the accused persons, in a drunken state, pushed her door and entered her house. They forcibly threw her down and attempted to rape her. Accused number two covered the complainant's mouth, and accused number one tore her blouse and lifted her petticoat and Saree, attempting to insert his genitals into hers. The complainant continuously resisted physically so her mouth was freed, and she started screaming, on seeing people approaching, the accused persons fled while snatching her silver chain.

b. On basis of complaint petition, the present complain case was registered.

After recording the statement of complainant on SA and statement of inquiry witnesses, the learned JM II, Vaishali summoned the accused persons namely Angad Chaudhary and Amarnath Prasad for trial vide order dated 18.08.2003 under section 380 and 354 IPC.

4. In this revision petition, the revisionist has taken several grounds for impugning the order dated 02.07.2025 passed by Learned Judicial Magistrate II, Vaishali and prayed to allow the present criminal revision and set aside the order dated 02.07.2025 passed by Judicial Magistrate 1st Class, Hajipur.

5. I have heard the learned Counsel for the revisionist and the learned Counsel for the State. I have also perused the materials available on record as well as the impugned order.

6. Learned Counsel for the petitioner/revisionist has submitted that the learned Court has passed impugned order against the revisionist without considering the fact that, processes of summon, bailable warrant, non bailable warrant were not served, there being no service report of these processes, the order under section 82 CrPC as also under 83 CrPC should not have been passed and the permanent warrant should not be issued and the same have been passed are illegal not sustainable and fit to be quashed

7. From perusal of LCR, it transpires that after taking cognizance, summon was issued on 29.08.2003 in pursuance of the order dated 25.08.2003. Bailable Warrant was issued on 19.04.2004 in pursuance to the order dated 11.11.2003 without any service report of summons. Non Bailable Warrant was issued on 25.08.2004 in pursuance to the order dated 24.08.2004 fixing next date 03.12.2004 without any service report of Bailable Warrant. It further transpires that on the next date i.e. 03.12.2004 issuance for process of 82 CrPC was ordered and the same was issued on 04.08.2005 without any service report of Non Bailable Warrant. The process of 83 Cr.P.C was issued on 23.09.2006 in pursuance to the order dated 08.09.2006 without any service report of process of 82 CrPC.

From further perusal of Trial Court Record, it transpires that, the Learned Trial Court declared absconder and issued permanent warrant on 02.07.2025 without any service report of process of 83 Cr.P.C. It is pertinent to mention that the trial Court has made every effort to get service report, also issued reminder, DO letter, and show cause but the same has no avail.

It has been held by **Hon'ble High Court in Criminal Miscellaneous No. 66151 of 2023 (Ajeet Kumar and another vs State of Bihar and another)**

Hon’ble MR. Justice PARTHA SARTHY, order dated 14.08.2024 in para-11 that “11. Coming to the facts of the instant case as stated herein above as also evident from the ordersheet of the learned trial Court, herein also the learned trial Court proceeded in the matter without there being any service report of the summons orailable warrant of arrest. The procedure adopted by the learned trial Court was of issuing nonailable warrant, process under section 82 and thereafter under section 83 Cr.P.C. even without recording its reasons and satisfaction to the effect that the petitioners were deliberately avoiding service. The orders issuing process under section 82 Cr.P.C. as also under section 83 Cr.P.C. were clearly contrary to the procedure prescribed under the Code of Criminal Procedure. The same thus being not sustainable, are both fit to be quashed”.

8. Following up the factual matrix of the case and also in the view of the law laid down by the Hon'ble High Court, the impugned order dated 02.07.2025 as well as order dated 03.12.2004 issuance of process of 82 CrPC and order dated 08.09.2006 issuance of process of 83 CrPC are not sustainable and liable to be set aside

Order

9. Consequently,
- a. The instant revision petition is accordingly allowed and the impugned order dated 02.07.2025 as well as order dated 03.12.2004 issuance of process of 82 CrPC and order dated 08.09.2006 issuance of process of 83 CrPC is set aside.
 - b. Learned Trail Court is requested to proceed in accordance with law.
 - c. Let a copy of this order along with Trial Court Record be sent to the concerned court.

The Judgement is pronounced and delivered in the open Court in presence of the parties under my seal and signature on this 1st. April 2026.

The Judgment is dictated and corrected by:

Harshit Singh
Sessions Judge
Vaishali
Vaishali
Dated:01.04.2026

Harshit Singh
Sessions Judge

Dated: 01.04.2026

Date of Order	01.04.2026
Date of Uploading	04.04.2026
Uploaded by	N.K.