

SC 979/2023

STATE Vs. MANISH KASHYAP

FIR No. 541 /2021

PS (Gandhi Nagar)

21.02.2024

Pr. Sh. Gaurav Pandey, Ld. Additional P.P. for the State.

Accused is on bail with counsel Sh. Chandrakar Mishra.

PW ASI Pawan Kumar (IO) is present.

PW Mohd. Mukeem is served but not present.

Issue bailable warrant against PW Mohd. Mukeem in the sum of Rs.2000/- with notice under Section 350 Cr.P.C. for the NDOH.

Summons sent to PW Kamal Singh has not been received back. Naib Court has informed that four summons were sent in this case, however, only three summons have returned and summons of PW Kamal Singh has not been returned. Naib Court of concerned PS is present in the Court, he has informed that only three summons were received by him, which he has produced before this Court. However, PW Kamal Singh is present. On being asked, he has produced the summons, which bears his signatures.

Let VB Incharge and SHO, PS Gandhi Nagar be called.

(Shail Jain)

Principal District & Sessions Judge,
East District, KKD Courts, Delhi.

21.02.2024 (mk)

At 2.10 p.m.

Pr. Sh. Gaurav Pandey, Ld. Additional P.P. for the State.

Accused is on bail with counsel Sh. Chandrakar Mishra.

Kamal Singh has been examined, cross-examined and discharged as PW-1.

VB Incharge Salunkhe Narayan is present. He submits that summons of PW Kamal Singh were entrusted to Ct. Mahender for getting it served, but he had returned all the summons except summons, which were issued for PW Kamal Singh. Due to service of summons, PW Kamal Singh was present in the Court and he was carrying the summons, which bears his signatures on it.

As per practice, signatures of witness are obtained on the copy of summons, which is to be sent back to the Court and not on the copy, which is given to the witness. Therefore, it appears that deliberately Ct. Mahender (Process server) and VB Incharge have not followed the proper procedure and action be taken against them for their negligence.

VB Incharge Salunkhe Narayan also submits that SHO PS Gandhi Nagar is waiting at Gate no.2 but he is not being allowed to enter the court premises by the lawyers. He was asked to call SHO and tell him to enter the court from Judicial Officers' gate i.e. Gate no.1 and specific instructions were issued to security at gate no.1 to allow SHO PS Gandhi Nagar to enter from Gate no.1, considering the dispute between Advocates and Police Officials.

After sometime, it has been informed by the office of undersigned that SHO PS Gandhi Nagar has been contacted and he has informed that he is busy in law and order duty at Gazipur

Border. At this, VB Incharge has stated that SHO PS Gandhi Nagar had come at 1.30 p.m. and has gone thereafter. It is clear that 1.30 p.m. is lunch time for the Court, therefore, firstly there can not be any reason that in lunch time anybody will stop SHO PS Gandhi Nagar from entering the court premises from entry gate. Secondly, he was directed to appear at 2.00 p.m., but he has left the court before 2.00 p.m., as told by VB Incharge. It appears that VB Incharge has given mis-information in order to avoid his liability. SHO has specifically avoided to appear in the court for explaining the loss of summons of PW Kamal Singh.

SHO PS Gandhi Nagar has also defaulted in not appearing in the Court despite being specifically directed. Let matter be brought to the notice of DCP, Shahdara with direction to take appropriate action against the above erring Police officials. A copy of this order be sent to DCP, Shahdara.

Put up for **RPE on 18.04.2024.**

(Shail Jain)
Principal District & Sessions Judge,
East District, KKD Courts, Delhi.
21.02.2024 (mk)