

case. It is further contended in the interlocutory application that the Investigating Officer has gone to the extent of issuing notices under Section 41A of the CrPC to the petitioners also by describing the facts in detail in a distorted manner which indicates that the Investigating Officer in a pre-determined manner, in order to harass the officers of the Directorate of Enforcement, for having arrested opp. party no. 2, bent upon tampering with the evidence against the opp. party no. 2, issuing such notices. It is next submitted that the notices under Section 41A of the CrPC were issued by the opp. party no. 1 to create hindrance in the ongoing investigation under the Prevention of Money Laundering Act, 2002 and also to harass the petitioners, who are the officers of the Directorate of Enforcement and presently investigating the ECIR No. RNZO/25/2023.

It is further contended that earlier instances of creating parallel evidences to frustrate the evidences linked with the opp. party no. 2 have also surfaced during investigation where the land in his possession was restored to his associates namely Raj Kumar Pahan and others vide order dated 29.01.2024 and searches were continuing at premises under use and occupation of the opp. party no. 2 by misusing his powers in the capacity of Chief Minister of Jharkhand. It is also contended that the Opposite Party No. 1 has intentionally issued notice to the petitioners even though this Court observed that the petitioners were discharging their official duties and there is a bar under Section 67 of Prevention of Money Laundering Act, 2002 in respect of prosecution or other proceedings against any officer of the Government for anything done or intended to be done in good faith under the provisions of the Prevention of Money Laundering Act, 2002.

It is submitted by learned Additional Solicitor General of India , Mr. S.V. Raju, that the notice under Section 41 A of the CrPC, is precursor to the arrest of the petitioners. It is then submitted by Mr. Raju, by drawing attention of the Court to the notice issued under Section 41 A of the CrPC to the petitioners, the copy of which, has been annexed as Annexure 4 series of this I.A. that therein, the petitioners have been asked to remain present personally and the same is a coercive step and the same is in utter violation of the said

order dated 04.03.2024 and is an act of contempt of this Court, hence, it is submitted that the proceeding in respect of the FIR bearing ST/SC P.S. case no. 06 of 2024 be stayed.

Learned senior counsel Mr. Gopal Sankarnarayanan, appearing for the opp. party no. 1 submits that the opp. party no. 1 wants to file reply to this interlocutory application and for that, he prays for one week's time.

Learned senior counsel Mr. Gopal Sankarnarayanan, appearing for the opp. party no. 1 submits that the opp. party no. 1, has the right to investigate the cognizable offence, in respect of which, First Information Report involved in this case, has been registered and there is no exception in this case, hence, no order of stay of the further investigation of the case, be passed.

Having heard the submissions made at the Bar and after going through the materials in the record, it is pertinent to mention here that Section 41-A (4) of the CrPC, which reads as under :-

“Section 41A - Notice of appearance before police officer-

1. Xxxxxx
2. Xxxxxx
3. Xxxxxx
4. *Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, the police officer may, subject to such orders as may have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice.”*

empowers the police officer, who issues notice under Section 41A of the CrPC, where the person to whom, any notice is issued under Section 41 A of the CrPC, fails to comply with the terms of the notices or unwilling to identify himself, the police officer may, subject to such orders, as may have been passed by a competent court in this behalf, arrest him for the offence mentioned in the notice.

This Court in no uncertain manner, vide order dated 04.03.2024, has directed the opp. party no. 1 not to take any coercive step against the four petitioners of CrMP no. 286 of 2024 in connection with ST/SC P.S. case no. 06 of 2024.

This Court is of the considered opinion that it was not desirable on the part of the opp. party no. 1 to issue any notice under Section 41 A of the CrPC, directing them to remain personally present before the officer-in-charge of Gonda Police Station, Ranchi in connection with ST/SC P.S. case no. 06 of 2024. Hence, this Court stays the operation of the notices issued under Section 41 A of the CrPC , against the four petitioners of this CrMP No. 286 of 2024, the copies of which has been annexed as annexure- 4 series to this interlocutory application, till the time, the order of no coercive step asked vide order dated 04.03.2024, remains in force and further directs, the opp. party no. 1 not to issue any further notice under Section 41 A of the CrPC to the petitioners, till the next date of listing of this interlocutory application.

List this interlocutory application after the reply is filed by the State-opp. party no. 1.

(ANIL KUMAR CHOUDHARY, J.)

Cr.M.P. No. 286 of 2024

Learned counsel Mr. Shubham Gautam, files *vakalatnama* on behalf of the opp. party no. 2, keep the same in the record.

Learned senior counsel, Ms. Meenakshi Arora, appearing on behalf of the opp. party no. 2, prays for three weeks' time to file counter affidavit in the present criminal miscellaneous petition no. 286 of 2024.

Prayer for time is allowed.

Learned senior counsel Mr. Gopal Sankarnarayanan, appearing for the opp. party no. 1, also prays for three weeks' time to file counter affidavit.

List this case after three weeks.

The interim order of no coercive steps, passed earlier vide order dated 04.03.2024, is extended till next date of listing of this Cr.M.P. No. 286 of 2024.