

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.2276 of 2025

Sahdev Das @ Sahdeo Das, aged about 33 years, S/o Hemant Das,
R/o Panchayat Khatouri, Village- Kanikend, P.O.- Kisgo, P.s.- Deori,
District- Giridih ... Petitioner

Versus

1. The State of Jharkhand
2. Sunita Devi W/o Sahdeo Das, Village Kanikend, P.O. Deori Dist-
Giridih ... Opposite Parties

For the Petitioner : Mr. Pradyumna Poddar, Advocate
Mr. Subhneet Jha, Advocate
For the State : Mr. Shailesh Kr. Sinha, Addl.P.P.

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- Heard the parties.

2. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 with three-fold prayers i.e. to quash the orders dated 07.08.2018, 29.08.2019 passed by the learned Judicial Magistrate-1st Class, Giridih in connection with Complaint Case No.1174 of 2016 whereby and where under the proclamation under Section 82 of Cr.P.C. has been issued; and also the order dated 02.09.2022 by which the attachment order of the property of the petitioner-who is the accused person of the said case, has been issued .

3. At the outset, learned counsel for the petitioner submits that the petitioner does not press the prayer to quash the order dated 02.09.2022 as no property of the petitioner has been attached as yet.

4. Accordingly, the prayer to quash the said order dated 02.09.2022 is rejected as not pressed.

5. So far as the orders dated 07.08.2018 and 29.08.2019 passed by the learned Judicial Magistrate-1st Class, Giridih in connection with Complaint Case No.1174 of 2016 is concerned, learned counsel for the petitioner submits that vide order dated 07.08.2018, the proclamation under Section 82 of Cr.P.C. has been issued without following the due process of law and without recording the satisfaction that the petitioner is absconding or concealing himself to evade his arrest and without fixing any time and place for appearance of the petitioner and on 29.08.2019 again without recording any satisfaction, order has been passed to re-issue the proclamation under Section 82 of Cr.P.C. Therefore, it is submitted that the said orders dated 07.08.2018 and 29.08.2019 passed by the learned Judicial Magistrate-1st Class, Giridih in connection with Complaint Case No.1174 of 2016, being not in accordance with law; the same be quashed and set aside.

6. Learned Addl. P. P. appearing for the State on the other hand vehemently opposes the prayer of the petitioner and submits that the very fact that the learned Judicial Magistrate-1st Class, Giridih has issued the proclamation goes to show that there were ample materials available in the record for the learned Judicial Magistrate-1st Class,

Giridih to be satisfied that there is justification for issuance of such proclamation under Section 82 of Cr.P.C. Hence, it is submitted that this Cr.M.P., being without any merit, be dismissed.

7. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, it is pertinent to mention here that by now it is a settled principle of law that the court which issues the proclamation under Section 82 of Cr.P.C. must record its satisfaction that the accused in respect of whom the proclamation under Section 82 of Cr.P.C. is made, is absconding or concealing himself to evade his arrest and in case the court decides to issue the proclamation under Section 82 of Cr.P.C. it must mention the time and place for appearance of the petitioner in the order itself by which the proclamation under Section 82 of Cr.P.C. is issued. As already indicated above since the learned Judicial Magistrate-1st Class, Giridih has neither recorded its satisfaction that the petitioner is absconding or concealing himself to evade his arrest nor fixed any time or place for appearance of the petitioner who is the accused person of the case in respect of whom the said proclamation under Section 82 of Cr.P.C. has been issued, therefore, this Court has no hesitation in holding that the learned Judicial Magistrate-1st Class, Giridih has committed illegality by issuing the said proclamation under Section 82 of Cr.P.C. vide order dated 07.08.2018 and again re-issuing the same vide order dated 29.08.2019.

8. Accordingly, the orders dated 07.08.2018 and 29.08.2019 passed by the learned Judicial Magistrate-1st Class, Giridih in connection with Complaint Case No.1174 of 2016 having been passed without complying with the mandatory requirements of law are not sustainable in law. Therefore, the same are liable to be quashed and set aside. Hence, the orders dated 07.08.2018 and 29.08.2019 passed by the learned Judicial Magistrate-1st Class, Giridih in connection with Complaint Case No.1174 of 2016 are quashed and set aside against the petitioner named above.
9. The learned Judicial Magistrate-1st Class, Giridih may pass a fresh order in accordance with law.
10. In the result, this Criminal Miscellaneous Petition is allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 17th of February, 2026
AFR/ Animesh
Uploaded on- 24/02/2026