

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.2621 of 2025

Manjar Ansari aged about 28 years, Son of Jumman Miyan, Resident
of Village- Barwan, P.O. + P.S.- Barkattha, District- Hazaribag.

... Petitioner

Versus

The State of Jharkhand ... Opposite Party

For the Petitioner : Mr. Ashok Kumar Singh, Advocate

For the State : Mr. Abhay Kumar Tiwari, 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 B.N.S.S., 2023 with twin prayers.

3. At the outset, learned counsel for the petitioner submits that the petitioner does press the prayer to quash the order dated 02.03.2022 passed by the learned Judicial Magistrate-1st Class, Hazaribagh in connection with Barhi P.S. Case No.410 of 2020 corresponding to G.R. Case No.1454 of 2022 but confines his prayer only to quash the order dated 02.09.2021 passed by the learned Judicial Magistrate-1st Class, Hazaribagh in connection with the said case whereby and where under the proclamation under Section 82 of the Code of Criminal Procedure has been issued without fixing any time and place for appearance of the petitioner. Accordingly, the prayer to quash the order dated 02.03.2022 passed by the learned Judicial Magistrate-1st Class, Hazaribagh in connection with Barhi P.S. Case No.410 of 2020 corresponding to G.R. Case No.1454 of 2022 is rejected as not pressed.

4. Learned counsel for the petitioner submits that vide order dated 02.09.2021, the proclamation under Section 82 of the Code of Criminal Procedure has been issued against the petitioner without following the due process of law and without mentioning the time and place for appearance of the petitioner who is the accused person of the case. Hence, it is submitted that the said order dated 02.09.2021 being not in accordance with law, be quashed and set aside.

2. Learned Addl.P.P. appearing for the State on the other hand vehemently opposes the prayer of the petitioner made in this Criminal Miscellaneous Petition and submits that even though it has not been specifically mentioned in the said order dated 02.09.2021 passed by the learned Judicial Magistrate-1st Class, Hazaribagh but it is apparent that the petitioner was supposed to appear before the court concerned on any day after 30 days from the date of the proclamation under Section 82 of the Code of Criminal Procedure. Hence, it is submitted that this Criminal Miscellaneous Petition, being without any merit, be dismissed.

3. 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 the Code of Criminal Procedure besides recording its satisfaction that the accused in respect of whom the proclamation under Section 82 of the Code of Criminal Procedure is made, is absconding or concealing himself to evade his arrest, must also specifically mention the time and place for appearance of the accused person of the case, in respect of whom such proclamation is issued, in the order itself, by which the said proclamation is issued.

4. As already indicated above since the learned Judicial Magistrate-1st Class, Hazaribagh vide order dated 02.09.2021 in connection with Barhi P.S. Case No.410 of 2020 corresponding to G.R. Case No.1454 of 2022, has not fixed any time or place for appearance of the petitioner, who is the accused person of the case, hence, this Court has no hesitation in holding that the learned Judicial Magistrate-1st Class, Hazaribagh has committed illegality by issuing the said proclamation under Section 82 of the Code of Criminal Procedure, without complying with the mandatory requirements of law. Hence, the same is not sustainable in law and the continuation of the same will amount to abuse of process of law. Therefore, this is a fit case where the order dated 02.09.2021 passed by the learned Judicial Magistrate-1st Class, Hazaribagh in connection with Barhi P.S. Case No.410 of 2020 corresponding to G.R. Case No.1454 of 2022, be quashed and set aside.
5. Accordingly, the order dated 02.09.2021 passed by the learned Judicial Magistrate-1st Class, Hazaribagh in connection with Barhi P.S. Case No.410 of 2020 corresponding to G.R. Case No.1454 of 2022, is quashed and set aside.
6. The learned Judicial Magistrate-1st Class, Hazaribagh may pass a fresh order in accordance with law.
7. In the result, this Criminal Miscellaneous Petition is allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 15th of September, 2025
AFR/ Saroj