

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**Cr.M.P. No. 1825 of 2021**

Niwas Kumar Bernwal ..... Petitioner  
Versus  
State of Jharkhand ..... Opposite Party

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**CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI**  
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For the Petitioner : Mr. Rahul Kumar Das, Advocate  
For the State : Mrs. Priya Shrestha, A.P.P.  
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**02/ 08.09.2021** Heard Mr. Rahul Kumar Das, learned Counsel appearing for the petitioner and Mrs. Priya Shrestha, learned counsel appearing for the State.

2. This petition has been heard through Video Conferencing in view of the guidelines of the High Court taking into account the situation arising due to COVID-19 pandemic. None of the parties have complained about any technical snag of audio-video and with their consent this matter has been heard.

3. This criminal miscellaneous petition has been filed for quashing of the order dated 07.10.2015, whereby warrant of arrest has been issued against the petitioner and also for quashing of the order dated 21.4.2016, whereby proclamation under section 82 Cr.P.C. has been issued against the petitioner, in connection with Chutia P.S. Case No. 243 of 2014(S), pending in the Court of learned Judicial Magistrate, 1<sup>st</sup> Class, Ranchi.

4. Mr. Rahul Kumar Das, learned counsel appearing for the petitioner submits that both the orders are not passed in accordance with law. He submits that the order dated 07.10.2015 is bad in law, in view of Section 73 of the Cr.P.C. He relied upon a judgment of the Hon'ble Supreme Court in the case of *Inder Mohan Goswami Versus State of Uttaranchal*, reported in (2007) 12 SCC 1 and submits that in view of that order, the order issuing the warrant of arrest is bad in law and the same is fit to be quashed. He further submits that proclamation under Section 82 Cr.P.C. is also not in accordance with the parameters of Section 82 Cr.P.C.

5. Mrs. Priya Shrestha, learned counsel appearing for the State submits that so far as the order dated 07.10.2015 is concerned that can be maintained as the same has been passed by the learned Court after looking into the case diary and considering the prayer made by the I.O.

6. On perusal of the order dated 07.10.2015, it transpires that the concerned Court has looked into the case diary and the prayer thereof and thereafter the order of issuing the warrant of arrest has been

passed. The petitioner is facing the charge under Sections 376, 302 and 201 of the Indian Penal Code. The judgment relied upon by the learned counsel appearing for the petitioner as in the case of **Inder Mohan Goswami (supra)** was considered and the Court has clearly come to the conclusion by recording that Courts should strike a balance between social interests and personal liberty and exercise its discretion cautiously.

7. In view of the aforesaid facts, this Court comes to a conclusion that societal interest is involved in this case in view of the nature of crime, no interference is required in the order 07.10.2015 and the prayer with regard to that order, is hereby, rejected.

8. So far as the order dated 21.4.2016, whereby proclamation under section 82 Cr.P.C. has been issued against the petitioner is concerned, there is no indication of Form-IV Cr.P.C., which is statutory in nature, as held by this court in *Md. Rustam Alam @ Rustum & Ors. V. The State of Jharkhand*, reported in **2020 (2) JLJR 712**.

9. As such, the order dated 21.4.2016, whereby proclamation under section 82 Cr.P.C. has been issued against the petitioner, in connection with Chutia P.S. Case No. 243 of 2014(S), pending in the Court of learned Judicial Magistrate, 1<sup>st</sup> Class, Ranchi, is hereby, quashed.

10. The petitioner is directed to appear before the concerned Court on or before 23.09.2021.

11. If the petitioner will not appear on or before that date the concerned Court shall take all coercive steps against the petitioner.

12.. With the aforesaid observation and direction, this criminal miscellaneous petition stands disposed of.

**(Sanjay Kumar Dwivedi, J.)**