

(2016) 01 RAJ CK 0207

RAJASTHAN HIGH COURT (JAIPUR BENCH)

Case No: Criminal Misc. Petition No. 6379 of 2015.

Smt. Richa Yadav - Petitioner
@HASH State of Rajasthan

APPELLANT

Vs

RESPONDENT

Date of Decision: Jan. 5, 2016

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 482, Section 70(2)

Citation: (2016) 3 RajCriC 1057

Hon'ble Judges: Prashant Kumar Agarwal, J.

Bench: Single Bench

Advocate: Mr. Sudesh Bansal with Ms. Arti Goyal, Advocates, for the Petitioner; Mr. Jitendra Shrimali, Public Prosecutor, for the State

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Mr. Prashant Kumar Agarwal, J. - By way of this Criminal Misc. Petition under Section 482 Cr.P.C., the accused-petitioner has challenged the order dated 19.04.2006 whereby she was ordered to be summoned through warrant of arrest, order dated 5.8.2006 whereby the petitioner was declared absconder and standing warrant of arrest was issued against her and also the order dated 7.11.2015 whereby the learned trial Court dismissed the application under Section 70 (2) Cr.P.C. filed by the petitioner.

2. It was submitted by the learned counsel for the petitioner that charge-sheet was filed against the petitioner in the trial Court on 19.4.2006 without giving intimation to her about filing of the charge-sheet and the Court below without having due regard to this fact straight away ordered to issue warrant of arrest on the same day. It was further submitted that although the warrant of arrest so issued was not executed upon the petitioner, but even then the Court below without following the

procedure prescribed under Sections 82 and 83 Cr.P.C., declared the petitioner as an absconder and issued standing warrant for her presence before it. It was also submitted that as soon as the fact of issuance of standing warrant came into her knowledge, petitioner filed a detailed application under Section 70 (2) Cr.P.C. with prayer to convert the arrest warrant into bailable warrant, but the learned trial Court without due consideration of the reasons narrated in the application dismissed it by way of impugned order dated 7.11.2015. It was prayed by the learned counsel for the petitioner that the arrest warrant issued against the petitioner may order to be converted into bailable warrant so that she may appear before the trial Court. It is to be noted that in the application under Section 70 (2) Cr.P.C. neither the date was mentioned on which the fact of standing warrant came into the knowledge of the petitioner nor it was clarified how this fact came into her knowledge.

3. Having considered the submissions made and the material made available on record, no case is made out for interference by this Court. Even if it is admitted that the petitioner has wrongly been declared absconder and standing warrant has improperly been issued to ensure her presence before the trial Court, but in my view as soon as the fact of pendency of the aforesaid case came into her knowledge, it was bounden duty of the petitioner to appear before the trial Court and then pursue appropriate remedy available under law.

4. Consequently, the criminal misc. petition being devoid of merit and is, hereby, dismissed. The stay application also stands dismissed.