

## The State of Manipur Vs Code No. 45039 Luis Topno

**Court:** Gauhati High Court (Imphal Bench)

**Date of Decision:** Feb. 1, 2012

**Acts Referred:** Criminal Procedure Code, 1973 (CrPC) â€” Section 397, 401, 70, 71, 72  
Penal Code, 1860 (IPC) â€” Section 302, 34

**Hon'ble Judges:** Swapan Chandra Das, J

**Bench:** Single Bench

**Advocate:** Th. Ibohal Singh, P.P.H.C, for the Appellant;

### Judgement

@JUDGMENTTAG-ORDER

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1. Criminal Revision Petition No.02 of 2012 and Criminal Petition No.03 of 2012 are taken up together for disposal since both the petitions filed

by the same petitioners against the same respondent, challenging similar orders arising out of same case and, hence, this single order shall govern

both the cases.

2. Heard learned P.P., Mr. Th. Ibohal Singh, appearing for the petitioners. Attendance of the respondent could not be procured.

On hearing learned P.P., I find that the revisional applications may be disposed of even in the absence of the respondent, and hence, the cases are

taken up for hearing and disposal.

3. The respondent, Luis Topno along with another Albert Baa were charge sheeted by police in connection with Gamnum Supormeina P.S. FIR

No. 2(1)/2000, and accordingly, Cril.(P) case No. 3/2002 u/s 302 read with Section 34 of IPC was registered in the Court of Chief Judicial

Magistrate, Senapati. The respondent, Luis Topno obtained bail and subsequent thereto he jumped bail and absconded. In due process, the

attendance could not be procured after issuance of notice to the surety and summon to the accused, and therefore, warrant of arrest was issued by

the Magistrate to secure attendance of the accused. The warrant was sent to the concerned police station through Superintendent of Police of the

District, where the accused ordinarily resides, but the learned Magistrate received no response. It may be mentioned here that in the charge sheet

the address of the accused, so far mentioned, was at a village in the State of Bihar, now Jharkhand. The Magistrate, after exhausting all efforts,

now by the impugned orders dated 06.11.2009 and 01.12.2009, passed in case No. Cril.(P) 03 of 2002, directed fresh warrant and requested

DGP, Manipur to send a police officer with the warrant to the address of the accused in the State of Jharkhand and to execute the warrant as per

the procedure prescribed by law.

4. Both the orders were passed one after the other directing execution of warrants against the respondent accused, Luis Topno.

5. Learned P.P. has submitted that the warrants were sent to the Superintendent of Police of the concerned District in Jharkhand where the

accused ordinarily resides but no response received from that State, and under such circumstances, sending of a police officer from Manipur will

be of no use. It is also submitted by learned P.P. that while Jharkhand is a disturbed area affected by Maoists activities, sending of a police officer

from Manipur likely to be of no use and it will be a futile exercise and misuse of public fund. He, therefore, prayed for revising the orders.

6. These are revisional applications u/s 397 read with Section 401 of Cr.P.C. In such a matter this Court is to see the correctness, legality and

propriety of an order passed by an inferior Court and regularity of the proceeding, pending before such Court. The impugned orders were passed

by learned Chief Judicial Magistrate, directing execution of the warrants of arrest against the respondent, who jumped bail and absconded to

evade trial. It is the solemn responsibility of the State to secure attendance of an offender and to bring him before the Court of law to face trial in a

criminal case. Sections 70 to 81 in Chapter VI of the Criminal Procedure Code prescribe the procedures of execution of a warrant of arrest.

Admittedly, the respondent accused, Luis Topno, S/O Samuel Topno is a resident of Tordung Doutoli Village, P.O. Pokala, P.S. Kamdala,

District-Gumla, Jharkhand. According to learned Magistrate, warrant in the name of the accused was sent to the concerned Superintendent of

Police of the District at Jharkhand, but even after repeated requests, no response was received, and therefore, now, learned Magistrate requested

the DGP of the State of Manipur to send an officer of Manipur Police to the State of Jharkhand with a warrant of arrest and to execute it as per

the procedures prescribed in Section 79 of Cr.P.C.

For ready reference, let us reproduce here Section 79 of Cr.P.C., which reads thus:

Warrant directed to police officer for execution outside jurisdiction

(1) When a warrant directed to a police officer is to be executed beyond the local jurisdiction of the court issuing the same, he shall ordinarily take

it for endorsement either to an Executive Magistrate or to a police officer not below the rank of an officer-in-charge of a police station, within the

local limits of whose jurisdiction the warrant is to be executed.

(2) Such Magistrate or police officer shall endorse his name thereon and such endorsement shall be sufficient authority to the police officer to

whom the warrant is directed to execute the same, and the local police shall, if so required, assist such officer in executing such warrant.

(3) Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or police officer within whose

local jurisdiction the warrant is to be executed will prevent such execution, the police officer to whom it is directed may execute the same without

such endorsement in any place beyond the local jurisdiction of the court which issued it.

7. The law, as prescribed in the Code of Criminal Procedure, 1973, is applicable throughout India except the State of Jammu & Kashmir and it is

expected that when a warrant of arrest issued by a competent Court of jurisdiction, all authorities within the Territory of India, shall attach due

importance to execute such a warrant to secure the administration of justice. If a warrant is sent to a Superintendent of Police/Commissioner of

Police in another State and that is not attended even after reminders, the rule of law shall collapse and procedure prescribed by law shall become

ineffective, which is not desirable at all.

8. In the order passed by the learned Magistrate, I find no illegality, impropriety or incorrectness to interfere in the order. Since it is the duty of the

State to secure attendance of the offender and to bring him to the Court of law for trial, I find the order was legally tenable and the DGP of

Manipur is liable to send an officer of Manipur Police with the warrant to the concerned State and to execute the warrant observing procedure

prescribed in Section 79 of Cr.P.C.

9. It is expected that the concerned Executive Magistrate or Commissioner of Police of the District where the accused has been residing will

render due assistance according to law to the concerned police officer in executing the warrant.

10. With the above observation the criminal revisional applications stands disposed of. Send a copy of this order to the DGP of Manipur. A copy

of the order may also be furnished to learned P.P.