

**Dhrupatia Vs. State**

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**SooperKanoon Citation :** [sooperkanoon.com/351418](http://sooperkanoon.com/351418)

**Court :** Mumbai

**Decided On :** Feb-24-1956

**Reported in :** AIR1956Bom591; 1956CriLJ989

**Judge :** Bavdekar, J.

**Acts :** [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 83(1) and 83(2)

**Appeal No. :** Criminal Revn. Appln. No. 57 of 1956

**Appellant :** Dhrupatia

**Respondent :** State

**Advocate for Def. :** Government Pleader

**Advocate for Pet/Ap. :** V.W. Pathare and ;W.S. Pathare, Advs.

**Judgement :**

1. This is an application for revision by a person in regard to whose appearance a warrant has been issued by the First Class Magistrate, Basti, U.P. The warrant appears to have been addressed to the Station Officer, Kotwali without mentioning the name of the particular police station to the station officer of which the warrant was directed. It was then sent by the Magistrate concerned, who was apparently himself authorised to sign for the District Magistrate, to the Chief Presidency Magistrate Bombay. The forwarding letter is addressed to the Presidency

Magistrate, Bombay.

There seems to be nothing against the appellant's contention that the warrant was handed over to complainant and the complainant went to the Chief Presidency Magistrate, when the Chief Presidency Magistrate endorsed the warrant to the Commissioner of Police for compliance and directly returning to the officer concerned. The Commissioner then endorsed the warrant further to the Inspector of Police, Bombay, who caused the applicant to be arrested and then produced before a Magistrate.

The applicant raised several contentions before the learned Magistrate, but the only ones out of them which need be mentioned for the purpose of the present application for revision is that the warrant has been addressed to some police station officer without mentioning which! is exactly the station to the station officer of which it is addressed. It is said that consequently it is not a good warrant, because there is vagueness with regard to the officer to whom it is addressed.

It is said in the second instance that inasmuch as this was a warrant to be executed outside the local limits of the jurisdiction of the Court issuing the same, the warrant had to be sent by post or otherwise to any Magistrate or District Superintendent of Police or the Commissioner of Police in a presidency town within the local limits of whose jurisdiction it was to be executed. This has not been done for the reason that the warrant has actually been addressed to a police officer.

2. Now, it appears to me that in this case the intention was that the warrant was to be sent to a Magistrate under the provisions of Section 83(1). It has actually as a matter of fact been sent to the Chief Presidency Magistrate. It does not appear to make any difference if it was sent through the complainant as it is alleged that it had been done. The Court issuing the warrant is entitled to forward it not only by post but also otherwise. The warrant is really therefore addressed to the presidency Magistrate, Bombay.

It is true that where there is a blank left in the warrant for the purpose of naming the person to whom it is addressed there have been put in the words, 'S.O.

Kotwali'. But these words could not have been meant to apply to any police officer within the jurisdiction of the Magistrate, for the reason that if that was the intention, it would have been mentioned which particular Kotwali or police station the warrant was directed to.

It is obvious therefore that the Court which issued the warrant being unaware of the exact police station within the limits of which the applicant would be found has left a blank with regard to the Kotwali and has sent the warrant to a Magistrate, expecting that the Magistrate would endorse it to the police officer concerned.

3. The only question then is whether it can be said that this warrant is an illegal one on this account. Now, it appears to me that Section 83(1), is intended to provide a safeguard to a person who has to be arrested, so that he is not arrested without a proper authority having applied his mind to the question of the legality of the warrant and authorised arrest outside the jurisdiction of the Court which had issued the warrant.

It is true of course that the officer who had got to get the warrant executed must be satisfied and similarly the Court to which subsequently the arrested person is taken must also be satisfied that the warrant has been issued by a Court and of the identity of the person to be arrested; but then when these things have been proved the rest appear to me only questions of procedure.

Now, the warrant in this case is unsatisfactory in the sense that at the place where there is left a blank in the warrant for specifying the name of the police officer, if any, to whom it is addressed, there appear to have been put in indefinite words 'Sub-Inspector of a Police Station', without mentioning the particular police station intended. That might or might not have made, any difference if the warrant was really speaking intended to be executed by the officer to whom it was directed; but that this was not the intention is quite clear from the fact that the warrant was sent in this case not by post but otherwise to the Chief Presidency Magistrate in Bombay.

The intention obviously therefore was that it was to be executed under Section 83(1). The proper thing to do in such a case is not to put the name of any officer in

the warrant but forward the warrant itself leaving a blank by post or otherwise to a Magistrate concerned. But even if this has not been done, that does not make any difference if the intention is quite clear that the warrant was to be executed in the manner laid down in Section 83(1).

That the intention in this particular case was that, the warrant should be taken to the Chief Presidency Magistrate and he should direct its execution in the manner laid down in 8. 83(2), is quite clear from the fact that the warrant was addressed to a Presidency Magistrate, was actually sent to the Chief Presidency Magistrate and his endorsement for its execution in Bombay was obtained.

It appears to me therefore that the mentioning of the words 'station officer, Kotwali' in the blank reserved for the name of the officer to whom it is directed is no more than an irregularity. There is no doubt whatever that the warrant has been issued by a First Class Magistrate of Basti, and it is no longer in dispute that it was for the arrest of the applicant herself.

4. In that case the order which has been passed calling upon the applicant to appear before the Basti Court is quite correct. The only question is whether the applicant should not be admitted to bail, Now, it appears to me that in this case the intention was that the applicant should be released upon bail because in the portion of the warrant where an endorsement has to be made if the accused person arrested has to be admitted to bail the name of the applicant herself has been put in. A blank has been left for the amount of the bail. The intention obviously therefore was to admit the applicant to bail.

5. I therefore direct the applicant to present herself before the First Class Magistrate, Basti, on the 2nd of March. In the meanwhile the applicant is admitted to bail of Rs. 500/-. Fresh bond to be taken from the applicant. Till she executes that bond, the applicant will be allowed to continue on the present bail.

Order accordingly.