
(2020) 09 JH CK 0078

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 473 Of 2020

Kaushal Kumar Pandey

APPELLANT

Vs

State of Jharkhand And Ors

RESPONDENT

Date of Decision : 08-09-2020

Acts Referred:

Indian Penal Code, 1860 — Section 34, 323, 341, 379, 386, 504, 506

Citation : (2020) 09 JH CK 0078

Hon'ble Judges : Ananda Sen, J

Bench : Single Bench

Advocate : Suraj Singh, Rajneesh Vardhan

Final Decision : Allowed

Judgement

The lawyers have no objection with regard to the proceeding, which has been held through video conferencing today at 11.00 A.M. They have no complaint in respect to the audio and video clarity and quality.

This case was listed/ supposed to be listed before the Lawazima Board of the Registrar General for passing an order in respect of the defects, pointed out by the office.

Considering the pandemic situation where the Court has minimized the footfall of the lawyers and their Clerks in the Court, this court felt proper to get all the cases listed before this Court so that the defects can be looked into at this stage only. Thus, this case is listed today before this Court directly.

The defects stand ignored for the present.

With the consent of the parties, the matter is taken up for hearing on merits.

Heard the parties.

The petitioner is challenging the order dated 04.06.2018, passed in G.R. 1841 of 2016, by which the petitioner has been summoned after taking cognizance of the

offence punishable under Sections 341, 323, 504, 506, 386, 379/34 of the Indian Penal Code.

Learned counsel for the petitioners submits that in a most mechanical manner the cognizance has been taken. He submits that there are no materials against this petitioner. He submits that with an express authority the Company of this petitioner has seized the vehicle, which was on hire purchase. He submits that intimation about seizure and also about pre-seizure was given to the police station, in spite of that with a malafide intention this FIR has been lodged. He further submits that as the installments of hire purchase was not paid, the vehicle was seized and handed over to the financier. He further refers to the order passed by this Court in the case of "Amresh Kumar Dhiraj & Ors.- versus- State of Jharkhand & Anr, reported in 2020 (1) JLJR 199" and submits that the order taking cognizance and issuing summon is absolutely cryptic and non-speaking, thus, needs to be quashed.

After going through the record, I find that the order dated 04.06.2018 is absolutely cryptic and non-speaking one and is not in conformity with the judgment passed by this Court in the case, referred to above. What are the materials against the petitioner to proceed, or what is the overtact of the petitioner has also not been mentioned. Thus, the impugned order dated 04.06.2018, passed by the Judicial Magistrate, Garhwa in G.R. No. 1841 of 2016, is, hereby, set aside. The matter is remitted to the Court below to pass a fresh order in accordance with the provisions of law.

This criminal miscellaneous petition stands allowed.