
(2020) 08 JH CK 0214

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 1891 Of 2015

Sanjiv Mahato And Ors

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 25-08-2020

Acts Referred:

Indian Penal Code, 1860 — Section 34, 190, 204, 420, 467, 468

Citation : (2020) 08 JH CK 0214

Hon'ble Judges : Ananda Sen, J

Bench : Single Bench

Advocate : Rohitashya Roy, Praveen Kumar Appu

Final Decision : Allowed

Judgement

1. Heard learned counsel for the petitioner and learned A.P.P. appearing for the State through Video Conferencing. 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 complain with respect to the audio and video clarity and quality.

2. Order taking cognizance dated 02.03.2016 passed by the Chief Judicial Magistrate, Ranchi in Kotwali Police Station Case No. 711 of 2015 (G.R. No. 4983 of 2015) is under challenge.

3. After conclusion of investigation, chargesheet was filed under Sections 420/34 of the Indian Penal Code, which is apparent from the impugned order. Chargesheet was numbered as 40 of 2016 dated 26.02.2016. The impugned order suggests that after perusing the case diary and record, the Court below found a prima facie case under Sections 420/34, 467/468/34 of the Indian Penal Code. In the very next paragraph the Court records the following finding: -

"Accordingly, cognizance for offence U/Ss. 420/34 IPC has been taken against the abovenamed accused noted in Col.no.11 of the C/S."

4. Aforesaid order is absolutely confusing. The Court below, on one hand, states that there are prima facie material to constitute offences under Sections 467/468 of the Indian Penal Code, but, thereafter took cognizance of the offence under Sections 420/34 of the Indian Penal Code. This shows complete non-application of mind and shows that cognizance has been taken in a most mechanical manner. Second thing, thereafter, as to what are the materials, which attract the offence under Sections 420/34 of the Indian Penal Code or even offence under Sections 467/468/34 of the Indian Penal Code have also not been mentioned. In what manner, offence has been committed has also not been mentioned. The order is not only a non-speaking one, but, also suggests non-application of mind and shows how mechanically the order has been passed.

5. Considering the aforesaid facts, I find that the Court below has passed the impugned order absolutely in a mechanical manner. The impugned order is absolutely cryptic and does not comply the provisions of Section 190 and 204 of the Code of Criminal Procedure. The order is also not in consonance with the order passed by this Court in the case of Amresh Kumar Dhiraj & Ors. versus State of Jharkhand & Another reported in 2020 (1) JLJR 199.

6. Considering the aforesaid facts, this criminal miscellaneous petition stands allowed. The impugned order dated 02.03.2016 passed by the Chief Judicial Magistrate, Ranchi in Kotwali Police Station Case No. 711 of 2015 (G.R. No. 4983 of 2015) is, hereby, set aside. The matter is remitted to the Court below to pass a fresh order in accordance with the provisions of law after taking into consideration the materials on record available in the case diary and the chargesheet.

7. This criminal miscellaneous petition, thus, stands allowed.