
(2013) 07 JH CK 0177

In the Jharkhand High Court

Case No : Criminal M.P. No. 2201 of 2012

Sikandar Prasad and Chandrashekhar Jha

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 22-07-2013

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 414, 419, 420, 467

Citation : (2013) 07 JH CK 0177

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Advocate : Indrajit Sinha, for the Appellant;

Judgement

Rakesh Ranjan Prasad, J.—This application is directed against the order dated 5.9.2011 passed by the Chief Judicial Magistrate, Koderma in G.R. No. 671 of 2011 (Chandwara P.S. case no. 59 of 2011) whereby and whereunder cognizance of the offence punishable under Sections 419, 420, 467, 468, 471, 414 /120B of the Indian Penal Code and also u/s 47(A) of the Excise Act has been taken against the petitioners. Learned counsel appearing for the petitioners submits that it is the case of the prosecution that when a Tempo was intercepted by the police, bottles of beer were found being transported under forged documents at the instance of these two petitioners but during investigation, no culpability was found of these two petitioners in the alleged offence and therefore, the police submitted final form but the court without assigning any reason has taken cognizance of the offences which would be illegal in view of the decision rendered in a case of Dr. Mrs. Nupur Talwar Vs. C.B.I., Delhi and Another, .

2. When a final form was submitted against the petitioners, the court took cognizance of the offence, vide order dated 5.9.2011 but while taking cognizance, no reason has been assigned as to on what basis he has come to conclusion that prima facie materials are there against these petitioners.

3. It be stated that the court is never required to assign reason in detail but at

least something should be there in the impugned order indicating therein about the materials collected during investigation upon which one can form opinion prima facie that it constitute offence against the person.

4. Under the circumstances, the impugned order is quashed and the matter is remanded back to the court concerned for passing a fresh order in accordance with law. Accordingly, this application stands disposed of.