
(2002) 05 JH CK 0080

In the Jharkhand High Court

Case No : Criminal M.P. No. 4989 of 2002

Suraj Narayan Tiwary and Others

APPELLANT

Vs

State of Jharkhand and Another

RESPONDENT

Date of Decision : 07-05-2002

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 323, 380

Citation : (2002) CRLJ 4458 : (2002) 0 AIR JHAR HCR 1016 : (2002) EastCriC 2 412

Hon'ble Judges : D.N. Prasad, J

Bench : Single Bench

Advocate : Prem Chand Tripathy, for the Appellant; Assistant Public Prosecutor, for the Respondent

Judgement

D.N. Prasad, J.—This is an application u/s 482 of the Code of Criminal Procedure for quashing the order dated 11-5-99 whereby and whereunder the learned Court below passed the order declaring the petitioners as absconder in connection with Chainpur P.S. Case No. 48/94, corresponding to G.R. Case No. 655/94 which was registered under Sections 380/323 I.P.C.

2. The learned Counsel appearing on behalf of the petitioner submitted that they have already been appearing before the court prior to submission of the charge-sheet and were also granted bail in this case prior to submission of the charge-sheet. It is further submitted that charge-sheet has already been submitted in this case under Sections 380/323 but they had no knowledge about the submission of the same nor any notice or summons were served upon them and as such the petitioners could not surrender or appear in the court below and the court below passed the order impugned without any basis or verifying about service of the summons.

3. It is true that summons and notice are required to be served upon to the accused after submission of the charge-sheet so that they may have knowledge

about filing of the charge-sheet against them. From perusal of the order, it does not appear that even any summons or notice was ever served upon them by the court below. In such circumstances, the order dated 11-5- 99 appears to be illegal and requires to be quashed. Hence the order impugned is, hereby, quashed. The petitioners are directed to surrender in the court below within 15 days of this order and if they surrender so, their prayer for bail shall be considered and disposed of on the same day.

4. With this observation, this application is disposed of.