

(2020) 09 JH CK 0060

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 1057 Of 2020

Sushila Kindo @ Sushil Kindo

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 07-09-2020

Acts Referred:

Indian Penal Code, 1860 — Section 120(B), 406, 420
Code Of Criminal Procedure, 1973 — Section 190, 204

Citation : (2020) 09 JH CK 0060

Hon'ble Judges : Ananda Sen, J

Bench : Single Bench

Advocate : Shekhar Sinha

Final Decision : Allowed

Judgement

The lawyer have no objection with regard to the proceeding, which has been held through video conference 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 defect(s), 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 defect(s) can be looked into at this stage only. Thus, this case is listed today before this Court directly.

With the consent of the parties, the matter is taken up for hearing on merits. Defect(s) as pointed out by the office, if any, is ignored for the present. In this application, petitioner has prayed to quash the order dated 5.03.2018 by which cognizance of the offence punishable under Section 406, 420 and 120(B) IPC has been taken.

Learned counsel for the petitioner submits that the cognizance order is absolutely bad and is a non-speaking order and it does not reflect any subjective satisfaction as to what are the materials to take cognizance against this petitioner. He submits that the requirements of Sections 190 & 204 Cr.P.C has not been dealt with in the impugned order. He is relying upon the judgment of this Court in the case of Amresh Kumar Dhiraj and Ors. Vs. State of Jharkhand &Anr., reported in 2020 (1) JLJR 199.

After going through the record, I find that the order is absolutely cryptic and non-speaking and is not in conformity with the judgment passed by this Court in the case of Amresh Kumar Dhiraj and Ors. Vs. State of Jharkhand &Anr., reported in 2020 (1) JLJR 199. What are the materials against the petitioner to proceed, has also not been mentioned. Thus, the impugned order dated 5.03.2018 passed by the court below is, hereby, set aside. The matter is remitted to the court below to pass a fresh order in accordance with the provision of law on the point of summon as there are no materials against the petitioner in terms of Section 204 Cr.P.C.

This criminal miscellaneous petition stands allowed.