

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**Cr. M.P. No. 1006 of 2020**

1. Mohan Singh @ Brij Mohan Singh  
2. Dwarika Prasad Singh  
3. Priyam Singh ... **Petitioners**

-versus-

1. The State of Jharkhand  
2. Abadh Bihari Singh ... **Opposite Parties**

**CORAM : HON'BLE MR. JUSTICE ANANDA SEN**  
**THROUGH VIDEO CONFERENCING**

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**For the Petitioners :** Mr. A.K. Kashyap, Sr. Advocate  
Mr. Anurag Kashyap, Advocate  
**For the State:** Ms. Lily Sahay, A.P.P.  
**For the O.P. No.2 :** None

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**3/ 10.09.2020** 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 in respect to the audio and video clarity and quality.

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

**3.** 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.

**4.** There are several defects and one of the defects is in respect of the Deficit Court Fee.

**5.** Learned counsel for the petitioners undertakes to deposit the Deficit Court Fee within two weeks. He prays to ignore the rest of the defects and take up this matter on merits.

**6.** Accordingly, save and except the Deficit Court Fee, the rest of the defects stand ignored for the present.

**7.** The petitioners, in this criminal miscellaneous petition, pray for quashing the order dated 01.06.2019 passed by the Chief Judicial Magistrate, Dumka in Dumka (T) Police Station Case No.99 of 2017 (G.R. No.487 of 2017), which is a composite order of taking cognizance of the offence under Sections 406/420/34 of the Indian Penal Code and issuing summons.

**8.** Mr. A.K. Kashyap, learned Senior Counsel appearing for the petitioners submits that there is no criminal offence is made out and the entire transaction is civil in nature. He submits that to recover money from the petitioners, the present criminal case has been filed by the opposite party

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No.2. He submits that the impugned order is absolutely cryptic and non-speaking. He submits that the Court below, while passing the impugned order has not mentioned anything as to what are the materials to issue summons against the petitioner.

9. After hearing the counsel for the parties, I have gone through the impugned order. While I go through the impugned order, I find that the same is absolutely cryptic and non speaking order. There is nothing in the impugned order to suggest as to what are the materials against the petitioner so as to proceed against him. This Court in the case of ***Amresh Kumar Dhiraj and Others versus State of Jharkhand & Another*** reported in ***2020 (1) JLJR 199 (Jhr.)*** has passed a detailed order discussing the provisions of issuing process under Section 204 of the Code of Criminal Procedure and order taking cognizance. The impugned order is not in consonance with the aforesaid order.

10. In view of the aforesaid facts, I find that the impugned order is prima facie bad, having been passed without recording any material against the petitioner so as to proceed against him and thus, being not in consonance with the provisions of the Code of Criminal Procedure and the law laid down in the case of ***Amresh Kumar Dhiraj (supra)***, exercising jurisdiction under Section 482 of the Code of Criminal Procedure, I hereby quash and set aside the impugned order dated 01.06.2019 passed by the Chief Judicial Magistrate, Dumka in Dumka (T) Police Station Case No.99 of 2017 corresponding to G.R. No.487 of 2017. The matter is remanded to the Court below for proceeding afresh and passing orders in accordance with the provisions of law after taking into consideration the materials on record.

11. This criminal miscellaneous petition is, accordingly, allowed.

**(Ananda Sen, J.)**