

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**Cr. M.P. No. 1010 of 2020**

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1. Dharmendra Prasad @ Dharmendra Kumar
2. Dinesh Prasad Yadav
3. Birju Prasad @ Brijnandan Prasad
4. Vikash Kumar
5. Shivpujan Prasad Yadav @ Shivpujan Kumar
6. Pawan Kumar @ Shiv Shankar Yadav
7. Rajesh Kumar
8. Shailendra Prasad Yadav @ Shailendra Kumar @ Abhishek Kumar
9. Shivbalak Prasad Yadav

... **Petitioners**

**-versus-**

The State of Jharkhand

... **Opposite Party**

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

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**For the Petitioners :** Ms. Rashmi Kumari, Advocate  
**For the State:** Mr. Prabir Chatterjee, A.P.P.

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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.

**5.** Learned counsel for the petitioners prays to ignore the rest of the defects and take up this matter on merits. Accordingly, the defects stand ignored for the present.

**6.** The petitioners, in this criminal miscellaneous petition, have challenged the order dated 07.02.2019 passed by the Chief Judicial Magistrate, Koderma in Satgawan Police Station Case No.61 of 2017 (G.R. No.1171 of 2017), by which cognizance has been taken under Section 307 of the Indian Penal Code after differing from the Chargesheet submitted by the police.

**7.** Learned counsel for the petitioners challenges the impugned order on the ground that though chargesheet was not submitted under Section

307 of the Indian Penal Code, yet the Court below has taken cognizance of the offence under Section 307 of the Indian Penal Code by differing from the chargesheet, but, without assigning any reasons. She submits that injuries are simple in nature and the offence under Section 307 of the Indian Penal Code is not attracted in this case.

8. After hearing the counsel for the parties, I have gone through the records and the impugned order. After going through the impugned order, I find that the same is absolutely cryptic and non speaking order. From the records and the impugned order, it is apparent that chargesheet was not submitted under Section 307 of the Indian Penal Code, yet the Court below took cognizance of the offence under Section 307 of the Indian Penal Code by differing from the chargesheet submitted by the police. It is well settled that while differing from the chargesheet submitted by the police, it is incumbent upon the Court to assign reasons. From the impugned order, I find that no reasons have been assigned for differing with the chargesheet submitted by the police. Further, I find that it has also not been mentioned in the impugned order as to what are materials which attracts the aforesaid Section. Moreover, I also find that there is nothing in the impugned order to suggest as to what are the materials against the petitioner so as to proceed against them. Thus, the impugned order is a non-speaking and not in consonance with the order/judgment of this Court in the case of **Amresh Kumar Dhiraj and Others versus State of Jharkhand & Another** reported in **2020 (1) JLJR 199 (Jhr.)** wherein this Court has passed a detailed order discussing the provisions of issuing process under Section 204 of the Code of Criminal Procedure and order taking cognizance.

10. In view of the aforesaid facts, I find that the impugned order is prima facie bad, having been passed without recording any material for differing with the chargesheet submitted by the police or without recording as to what are the materials against the petitioners so as to proceed against them 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 07.02.2019 passed by the Chief Judicial Magistrate, Koderma in Satgawan Police Station Case No.61 of 2017 corresponding to G.R. No.1171 of 2017. The matter is remanded to the Court below for proceeding afresh and passing

**-: 3 :-**

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.)**

Kumar/Cp-03