

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr.M.P No. 4161 of 2019

Upendra Agarwal @ Upendra Kumar Petitioner(s).

Versus

State of Jharkhand Opposite Party(s)

CORAM : HON'BLE MR. JUSTICE ANANDA SEN.

THROUGH : VIDEO CONFERENCING

FOR THE PETITIONER(S) : Mr. Mukesh Kumar Mehta, Advocate

FOR THE STATE : Mr. Ashok Singh, APP

06/10.09.2020

Defect(s) as pointed out by the office is ignored for the present.

Heard learned counsel for the parties through video conferencing. 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.

In this application, petitioner has challenged the order dated 11.11.2019 by which process under Section 82 Cr.P.C has been issued.

Counsel for the petitioner on earlier occasion when the case was argued, submitted that the order is absolutely cryptic and has not been passed in conformity with the provision of Section 82 Cr.P.C. He submitted that even the order-sheet does not suggest as to where and when the petitioner has to appear.

Considering the submission of the petitioner this court had called for the copy of the Form IV of the Cr.P.C. After going through Form-IV of the Cr.P.C. and the impugned order, I find that in the said Form-IV no date, time and place has been mentioned where petitioner has to appear in terms of Section 82 Cr.P.C. Neither in the order-sheet date, time and place has been mentioned nor in the Form IV. This Court in the case of *Md. Rustum Alam @ Rustam & Ors. Vrs. State of Jharkhand in Cr.M.P No. 2722 of 2019* has held that order-sheet must reflect the date, time and place where the petitioner has to appear in terms of the process issued under Section 82 Cr.P.C and non-recording and non-fixing of such date in the order-sheet will make entire order bad.

Considering the judgment passed in *Md. Rustum Alam @ Rustam (supra)* and also considering the fact that Form-IV does not reflect the date, time and place where the petitioner has to appear, I am inclined to allow this application setting aside the order dated 11.11.2019.

The matter is remitted to the court concerned to pass order afresh in accordance with law.

(ANANDA SEN , J)