

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. M.P. No. 608 of 2020

Md. Zaiyaul Haque @ Ziyaul Haque @ Jiaul Haque..... **Petitioner(s)**

Versus

State of Jharkhand.....

**Opp. Party(s)**

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Coram: The Hon'ble Mr. Justice Ananda Sen

Through:-Video Conferencing

For the petitioner

.....

: Md. Zaid Ahmad, Advocate.

For the State

: Mr. Bholanath Rajak, A.P.P.

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4/26.06.2020 The lawyers have no objection with regard to the proceeding, which has been held through video conferencing today at 10.30 A.M. They have no complaint in respect to the audio and video clarity and quality.

Heard learned counsel for the petitioner and learned A.P.P. for the State.

The petitioner, in this application, has challenged the orders dated 16.09.2019 & 21.10.2019, by which processes under Sections 82 Cr.P.C. and attachment order in terms of Section 83 Cr.P.C. respectively, has been issued against him.

While, I go through the order dated 16.09.2019, I find that in one line order without recording any satisfaction, the process under Section 82 Cr.P.C. has been issued. The reasons, given in the said order while issuing process, are that the petitioner is named in the FIR and the I.O. of the case has requested to issue process, as such, it is necessary to issue process against the petitioner. These two are not the grounds on which process under Section 82 Cr.P.C. can be issued.

This Court, in the case of "**Md. Rustum Alam @ Rustam & Ors- versus- the State of Jharkhand, in Cr. M.P. No. 2722 of 2019**" has elaborated as to under what grounds and on what circumstances, the process under Section 82 Cr.P.C. can be issued. The order dated 16.09.2019 is not in accordance with the judgment aforesaid and in accordance with the provision of Section 82 of Cr.P.C.

Considering the aforesaid fact, I am inclined to quash the order dated 16.09.2019. Accordingly, the order dated 16.09.2019, passed by the Judicial Magistrate, 1<sup>st</sup> Class, Jamshedpur in connection with Mango P.S. Case No. 141 of 2019, is hereby quashed.

Further, I find that the order dated 21.10.2019, which is also vague. No satisfaction has been recorded. Merely on asking of the Investigation Officer, the Court has issued the attachment order under Section 83 Cr.P.C. without recording any satisfaction. Thus, the order

dated 21.10.2019 is also bad. Accordingly, the order dated 21.10.2019 also stands quashed. The matter is remitted to the court below to pass a fresh order in accordance with law.

This criminal miscellaneous petition thus, stands allowed.

(Ananda Sen, J)