

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr.M.P. No. 57 of 2020

1. Basudeo Bagchi @ Basudev Bagchi
2. Avik Bagchi ... Petitioner(s).
Versus
The Directorate of Enforcement ... Opp. Party(s).

CORAM : HON'BLE MR. JUSTICE ANANDA SEN.
Through: Video Conferencing

For the Petitioner(s) : Mr. R. Krishna, Advocate.
For the E.D. : Mr. Prashant Vidyarthi, Advocate.

08/24.06.2020: 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 of the audio and video clarity and quality.

2 Heard the counsel for the parties.

3. By way of filing this petition, the petitioners have prayed for quashing the orders dated 5.11.2019 and 6.1.2020, by which, the Special Judge, PMLA, Ranchi, has issued the processes under Sections 82 and 83 Cr.P.C respectively in ECIR Case No. 01/2019.

4. Learned counsel for the petitioners submits that the process issued under Sections 82 Cr.P.C. is absolutely bad. He, in support of his submission, has produced a copy of Form No. 4, which is proclamation notice requiring the appearance of a person-accused.

5. I have perused the proclamation notice. In terms of Section 82(1) of the Cr.P.C, the court may publish a written proclamation requiring a person to appear at a specified place and at a specified time, not less than thirty days from the date of publishing such proclamation. This is a mandatory provision, which cannot be skipped.

6. From perusal of Form No. (4) and orders impugned, I find that nowhere it has been mentioned as to where and when the petitioners have to appear. The columns of Form No. 4, in which the date and the place had to be filled up, are kept blank. This basic mandatory requirement has been left out by the learned Special Judge, PMLA, Ranchi. Thus, I have no hesitation to hold that without application of mind and without complying the mandatory provision, the process under Section 82 Cr.P.C has been issued against the petitioners.

7. In view of the aforesaid facts, the impugned order dated 5.11.2019, by which, process under Section 82 Cr.P.C has been issued, is quashed and set aside. Since the impugned order dated 6.1.2020 by which, attachment has been issued under Section 83 Cr.P.C, is a consequential order of earlier order dated 5.11.2019, the same is also quashed and set aside. The matter is remanded to the court below.

8. Accordingly, this petition is **allowed**.
9. The learned court below is directed to pass order afresh in accordance with the provisions of law.

Anu/C.P.-3

(ANANDA SEN, J.)