

IN THE HIGH COURT OF JHARKHAND, RANCHI
Cr.M.P. No. 1720 of 2021

Budhani Devi @ Parvati @ Parwati Devi, aged about 56 years, w/o Shivnath Yadav, resident of Village-Raji , PO Raji, PS Kharaundhi, District-Garhwa, Jharkhand Petitioner

-- Versus --

1.The State of Jharkhand
2.Munna Paswan, s/o Nandu Paswan, r/o Choura, P.O. Raji, PS Kharaundhi, District-Garhwa, Jharkhand Opposite Parties

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner :- Mr. Ranjit Kumar Tiwari, Advocate
For the State :- Mr.Suraj Verma, APP

2/07.09.2021 Heard Mr. Ranjit Kumar Tiwari, the learned counsel for the petitioner and Mr. Suraj Verma, the learned counsel for the State.

This petition has been heard through Video Conferencing in view of the guidelines of the High Court taking into account the situation arising due to COVID-19 pandemic. None of the parties have complained about any technical snag of audio-video and with their consent this matter has been heard.

The petitioner has filed this petition for quashing the order dated 13.07.2021 whereby the process under section 82 Cr.PC in connection with Kharaundhi PS Case No.39/2020 has been directed to be issued against the petitioner.

The learned counsel for the petitioner submits that the order dated 13.07.2021 is a cryptic one and there is no satisfaction of the Magistrate in passing that order. He submits that the date, time and place is not recorded and only in four lines of the order, section 82 Cr.PC process has been directed to be issued.

Mr. Suraj Verma, the learned State counsel submits that there is no illegality in the impugned order.

Perused the impugned order dated 13.07.2021 wherein it is found that there is no reason assigned of issuing the process under section 82 Cr.PC. The mandatory provision for passing such order has not been considered which is against the mandate of this Court in "*Md. Rustam Alam @ Rustam and Others v. The State of Jharkhand*", 2020 (2) JLR 712I and the impugned order is not in accordance with law.

Accordingly, the impugned order dated 13.07.2021 in connection with Kharaundhi PS Case No.39/2020, pending in the court of learned Principal District and Sessions Judge, at Garhwa is quashed.

The matter is remitted back to the court concerned to proceed afresh strictly in terms of Cr.P.C.

Cr.M.P. No. 1720 of 2021 stands disposed of.

(Sanjay Kumar Dwivedi, J)

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