

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 1786 of 2021

Arvind Pathak Petitioner

Versus

1. The State of Jharkhand.
2. Awdhesh Kumar Pathak Opposite Parties

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner : Mr. Nishant Kumar Roy, Advocate

For the State : Mr. Suraj Verma, Advocate.

02/ 08.09.2021 Heard Mr. Nishant Kumar Roy, learned Counsel appearing for the petitioner and Mr. Suraj Verma, learned counsel appearing for the State.

2. 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.

3. This criminal miscellaneous petition has been filed for quashing of the order dated 18.11.2017, whereby, process under Section 82 Cr.P.C. has been directed to be issued against the petitioner and also for quashing of the order dated 08.01.2018, whereby process under Section 83 Cr.P.C. has also been issued against the petitioner, in connection with Complaint Case No. 294 of 2016, pending in the Court of learned S.D.J.M., Lohardaga.

4. Mr. Nishant Kumar Roy, learned counsel appearing for the petitioner submits that both the orders are cryptic and the concerned Court has passed the said order without following the parameters as indicated under section 82 Cr.P.C.

5. Mr. Suraj Verma, learned counsel appearing for the State opposes the prayer.

6. On perusal of the said order, it transpires that in only 4-5 lines, the said order has been passed and there is no indication of satisfaction of the learned Court, which is mandatory in law in terms of Section 82 Cr.P.C. There is no indication of Form-IV Cr.P.C., which is statutory in nature, as held by this court in *Md. Rustam Alam @ Rustum & Ors. V. The State of Jharkhand*, reported in **2020 (2) JLJR 712**.

7. In view of the aforesaid facts, the order dated 18.11.2017, whereby, process under Section 82 Cr.P.C. has been directed to be issued against the petitioner, in connection with Complaint Case No. 294 of 2016, pending in the Court of learned S.D.J.M., Lohardaga is hereby,

quashed. If the first order is illegal, the second order does not survive. As such the second order dated 08.01.2018, whereby process under Section 83 Cr.P.C. has also been issued against the petitioner, is also quashed.

8. The matter is remitted back to the Court of learned S.D.J.M., Lohardaga to proceed afresh in terms of the Code of Criminal Procedure and the judgment passed by this Court in the case of *Md. Rustum Alam @ Rustam & Ors. (Supra)*.

9. With the aforesaid observation and direction, this criminal miscellaneous petition stands disposed of.

(Sanjay Kumar Dwivedi, J.)

Amitesh/-