

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**Cr.M.P. No. 278 of 2021**

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Anima Baa, aged about 52 years, daughter of Late Alois Baa, resident of House No. 134, Khunti Bhawan, South Office Para, Post Office and Police Station-Doranda, District-Ranchi, Jharkhand .....

**Petitioner**

**Versus**

The State of Jharkhand

..... **Opposite Party**

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**CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI**

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For the Petitioner

: Mr. Raja Ravi Shekhar Singh, Advocate

For the Respondent-State

: Mr. Anil Kumar Singh, Advocate

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**03/Dated:13/04/2021:**

Heard, Mr. Raja Ravi Shekhar Singh, learned counsel for the petitioner and Mr. Anil Kumar Singh, learned counsel 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. The present criminal miscellaneous petition has been preferred for setting aside order dated 29.01.2013 whereby cognizance of offence under sections 363/ 366/ 354/ 376/ 511 of the Indian Penal Code and under section 5 of the Immoral Traffic (Prevention) Act in connection with T. Tangar P.S. Case No. No. 55 of 2012, Corresponding to G.R. No. 375/2012, S.T. No. 46/2013 has been taken against the petitioner, pending in the Court of learned Additional Sessions Judge, Simdega.

4. On a written statement of Gladson Dungdung who was a General Secretary of Jharkhand Human Rights Movement wherein it has been alleged that the Director-cum-Treasurer Sri Mantosh Kumar @ Ajay Tiwary and Secretary Anima Baa of a certain NGO located at Doranda at Ranchi which functions in Simdega have coaxed three tribal girls namely, Dipti Aruna Ekka, Anurupa Toppo and Shila Lakra on the pretext of giving a job at the NGO's Ranchi office, providing education, computer studies and English lessons took the girls to Ranchi and thereafter forced them to do the job of a household maid.

5. Mr. Raja Ravi Shekhar Singh, learned counsel appearing on behalf of the petitioner submits that cognizance has been taken by the impugned order against the petitioner without complying section 204 Cr.P.C., Section 207 Cr.P.C. has been revoked. He submits that by way of this illegality, the Trial Court has committed error in the eye of law. To buttress his argument, learned counsel for the petitioner relied upon judgment in the case of ***“Amresh Kumar Dhiraj & Ors. Vs. The State of Jharkhand & Another.”*** reported in ***2020 (1) JLR 199*** wherein para 22 it has been held as under:-

*“The order taking cognizance under Section 190 Cr.P.C. and order issuing process under section 204 Cr.P.C. can very well a composite order but as observed, the application of mind would be different in both cases. This application of mind must be reflected in the order itself. The order should not be mechanical. Magistrate has to mention at least that there are sufficient*

*materials to proceed against them. He need not pass a detail judgment evaluating the materials, which are before him. The detail reason as to why he is taking cognizance or issuing process are not be mentioned but at least what are the bare minimum prima facie materials against the accused petitioners should be mentioned in the order issuing summon and prima facie what offence is alleged, in the order taking cognizance.”*

6. Mr. Anil Kumar Singh, learned counsel appearing on behalf of the State fairly submits that the Trial Court has missed Section 204 Cr.P.C. and jumped to Section 207 Cr.P.C. which is under requirement at this stage and the matter may be remitted back to the court below to proceed afresh.

7. On perusal of impugned order, it transpires that the Court below has taken cognizance and directed to supply the police paper to the accused. This police paper was required to be supplied to the accused under section 207 Cr.P.C. but prior to that procedure, Section 204 Cr.P.C. has to be provided. There is no doubt that at the time of taking cognizance it is seen whether any offence is made out or not. At this stage, the Court is not to go into the merit of the case and comes to the conclusion whether charge or complaint case is made out or not. Prima facie situation is mandate for taking cognizance. There is no need to give detail reason.

8. In the case in hand, it is crystal clear that Section 204 Cr.P.C. has been overlooked by the Court below. In that view of the matter, the impugned order dated. 29.01.2013 passed in T. Tangar P.S. Case

No. 55 of 2012, Corresponding to G.R. No. 375 of 2012, S.T. No. 46 of 2013 is quashed. The matter is remitted back to the court below to proceed afresh considering Section 204 Cr.P.C. and Section 207 Cr.P.C.

9. It is made clear that the Court has not gone into merit of the case. Only on the aforesaid ground, the matter is being remitted back to the court below.

10. With the aforesaid observation and direction, this criminal miscellaneous application is disposed of.

**(Sanjay Kumar Dwivedi, J.)**