

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. M.P. No. 538 of 2021

1. Aman Singh @ Aman Kumar, aged about 21 years, son of Vinay Singh, resident of Sarjamda Bus stand Barigora, P.O. & P.S. Rahargora, Town-Jamshedpur, District- East Singhbhum
2. Dhanjay Singh @ Kalu @ Dhananjay Singh, aged about 22 years, son of Satyendra Singh, resident of Jojobera Scrap yard, P.O. & P.S. Govindpur, Town Jamshedpur, District- East Singhbhum
3. Amandeep Singh @ Aman Singh, aged about 21 years, son of Hardeep Singh, resident of village Jojobera Mohan Bagar near Shiv Mandir, P.O. & P.S. Govindpur, Town Jamshedpur, District- East Singhbhum

... Petitioners

-Versus-

The State of Jharkhand

... Opposite Party

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioners : Mr. Abhay Kumar Chaturvedy, Advocate
For the Opposite Party-State : Mr. Ashok Kumar, A.P.P.

03/25.03.2021. Heard Mr. Abhay Kumar Chaturvedy, learned counsel for the petitioners and Mr. Ashok Kumar, learned A.P.P. appearing for the opposite party-State.

2. This criminal miscellaneous 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 petitioner has filed this petition for quashing the order dated 19.12.2020 passed by the learned Additional Chief Judicial Magistrate, Jamshedpur in Parsudih P.S. Case No.18 of 2019, by which, process under Section 82 Cr.P.C. Has been issued against the petitioners.

4. Learned counsel for the petitioners submits that proclamation under Section 82 Cr.P.C. has been issued against the petitioners without following the procedure as prescribed in the Cr.P.C. and other judgments of the Court

particularly the judgment passed in the case of ***Md. Rustum Alam @ Rustam & Ors. v. The State of Jharkhand***, reported in ***2020 (2) JLJR 712***.

5. Mr. Ashok Kumar, learned A.P.P. appearing for the opposite party-State submits that there is no illegality in the impugned order on the ground that the concerned police officer has tried to apprehend the petitioners and, thereafter, the impugned order has been passed.

6. On perusal of the order dated 19.12.2020, it transpires that although the statement is there that the concerned police officer has tried to apprehend the petitioners, but it is not disclosed on which date the raid was made by the I.O. at the house of the petitioners for apprehending them. Moreover, there is no mention of time and place of appearance in light of Form-4 Cr.P.C., which is against the judgment of this Court in the case of *Md. Rustum Alam @ Rustam (supra)*.

7. Accordingly, the order dated 19.12.2020 passed by the learned Additional Chief Judicial Magistrate, Jamshedpur in Parsudih P.S. Case No.18 of 2019 is quashed.

8. The matter is remitted back to the court below 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 (supra)*, in accordance with law.

9. Accordingly, the petition stands disposed of.

(Sanjay Kumar Dwivedi, J.)