

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. M.P. No. 372 of 2021

Pankaj Kumar, aged about 25 years, Son of Sri Sanjay Kumar Singh,
Resident of Road No.2, Lane No.18, New Colony, Chotli Delha, P.O. & P.S.
Delha, Dist.- Gaya, Bihar

... **Petitioner**

-Versus-

The State of Jharkhand

... **Opposite Party**

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner : Mr. Vijay Shankar Prasad, Advocate
For the Opposite Party-State : Mr. Rajesh Kumar, A.P.P.

04/25.03.2021. Heard Mr. Vijay Shankar Prasad, learned counsel for the petitioner and Mr. Rajesh 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 12.01.2021, whereby, process under Section 82 Cr.P.C. has been directed to be issued against the petitioner in connection with Adityapur P.S. Case No.277/2017, corresponding to G.R. No.987/2017, pending in the court of learned Chief Judicial Magistrate, Seraikella Kharsawan.

4. Learned counsel for the petitioner submits that without following the due process of law as described under Section 82 Cr.P.C. and other judgments of the Court particularly in the case of ***Md. Rustum Alam @ Rustam & Ors. v. The State of Jharkhand***, reported in **2020 (2) JLJR 712**, the impugned order has been passed, which is not maintainable.

5. On the other hand, Mr. Rajesh Kumar, learned A.P.P. appearing for the opposite party-State submits that the process has rightly been issued on the application of the I.O.. He also submits that there is no illegality in the impugned order.

6. On perusal of the order dated 03.10.2018, it appears that warrant of arrest has been issued on that day. Non-bailable warrant has not been issued against the petitioner and on 12.01.2021, process under Section 82 Cr.P.C. has been directed to be issued against the petitioner. Although this order speaks that the I.O. has attempted to arrest the accused, but could not arrest him, but rest of the parameters with regard to Section 82 Cr.P.C. has not been followed. Form-4 Cr.P.C. is not disclosed and time and place of appearance has not been disclosed, which is against the judgment passed by this Court in the case of Md. Rustum Alam @ Rustam (*supra*).

7. Accordingly, the order dated 12.01.2021 passed in connection with Adityapur P.S. Case No.277/2017, corresponding to G.R. No.987/2017, pending in the court of learned Chief Judicial Magistrate, Seraikella Kharsawan 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, this petition stands disposed of.

(Sanjay Kumar Dwivedi, J.)