IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P No. 675 of 2020

Akilesh Kumar …. …. Petitioner(s).

Versus

State of Jharkhand …. …. Opposite Party(s)

CORAM : HON'BLE MR. JUSTICE ANANDA SEN.

FOR THE PETITIONER(S) : Mr. R.S. Mazumdar, Senior Advocate
FOR THE STATE : Mr. Shiv Shankar Kumar, APP

02/27.02.2020

Heard learned counsel for the parties.

By filing this application, petitioner has prayed for quashing the order dated 2.9.2019 passed by Additional Chief Judicial Magistrate, Chatra in Kunda P.S. Case No. 41 of 2018 by which process under Section 82 Cr.P.C was issued.

Counsel for the petitioner submits that no subjective satisfaction has been recorded in the impugned order. He submits that just because some case is made out and the petitioner's involvement becomes apparent, during investigation process under Section 82 Cr.P.C cannot be issued. He submits that while issuing process under Section 82 Cr.P.C the court has to be satisfied that petitioner is evading his arrest and the police is not in a position to arrest him inspite of raids.

After going through the order dated 2.9.2019, I find that the court has only observed that execution report of non bailable warrant of arrest has been received which shows that petitioner has evading his arrest. Nothing has been mentioned as to when the petitioner was tried to be apprehended or that the police had gone to apprehend the petitioner at the residence or at any other place. Paragraph nos. 14, 47,67 of the case diary has been referred, which only as per the impugned order itself, suggest that those paragraphs relates to involvement of the petitioner in the offence and not are in relation to dates or time when the police had gone to apprehend or arrest the petitioner. That being so, I find that no subjective satisfaction has been recorded which is necessary to pass the impugned order. Thus order dated 2.9.2019 is set aside.

Accordingly, the instant application stands allowed.

The matter is remitted to the court concerned for passing reasoned order afresh in accordance with law.

(ANANDA SEN , J)

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