IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 1563 of 2010
With
I.A. No. 10496 of 2019

Dr. Ambarish Soni ... Petitioner(s).

-Versus-

1. The State of Jharkhand
2. Abhay Kumar Bhatt. … Opp. Party(s).

CORAM : HON'BLE MR. JUSTICE ANANDA SEN.

For the Petitioner(s) :Mr. Aashish Kumar, Advocate.
For the State : A.P.P.

…....

09/04.02.2020: Heard the counsel for the parties.

The petitioner is aggrieved by the order dated 18.9.2010 by which, the learned Judicial Magistrate, 1st Class, Dhanbad, has taken cognizance for the offence under Section(s) 323, 341, 379, 506 and 34 of the Indian Penal Code in connection with complaint case No. 1537 of 2010.

Learned counsel for the petitioner submits that the order impugned is cryptic and it does not suggest application of mind. He further submits that requirement of Section 204 Cr.P.C. has not been dealt with in the order impugned. He also submit that the court should have sufficiently satisfied itself before issuing process against the accused. He further submits that what are the materials for taking the cognizance, has not been reflected in the order impugned, which makes the impugned order defective.

Learned A.P.P opposes the prayer of the petitioner but after going through the order impugned, he cannot justify the order impugned.

After going through the record and the order impugned, I find that the court below has taken cognizance for the offence under Section(s) 323, 341, 379, 506 and 34 of the Indian Penal Code. What are the materials against the petitioner to proceed against him has not been mentioned in the order impugned. In most mechanical way, the order taking cognizance has been passed. This Court in the case of **Amresh Kumar Dhiraj and Ors. Vs. State of Jharkhand and Anr.,** reported in **2020 (1) JLJR 199 (Jhr.)** has passed the detailed order discussing the provisions of Sections 190 and 204 Cr.P.C. The impugned order is not in consonance with the aforesaid order.

In view of the aforesaid facts, I find that order dated 18.9.2010 is not in consonance with the provisions as laid down under Sections 190 and 204 Cr.P.C. Thus, order impugned is, hereby, quashed and set aside.

Accordingly, this petition is **allowed.**

However, the learned court below is directed to pass order afresh in accordance with the provisions of law.

In view of final order passed in this petition, I.A. No. 10496 of 2019, filed for hearing hearing of this case, is also disposed of.

Anu/C.P.-3 **(ANANDA SEN, J.)**