

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

----

**Cr.M.P. No. 2627 of 2019**

----

Nilam Sinha, wife of Bijay Kumar aged about 53 years F/o Flat No.202 Om  
Prithavi Vihar, Bekarbandh, PO Dhanbad, P.S Dhanbad. Dist Dhanbad  
Jharkhand ..... Petitioner

-- Versus --

The State of Jharkhand and Anr. .... Opposite Parties

----

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

---

For the Petitioner :- Mr. Rahul Dev, Advocate  
For the State :- Mr. B.N.Ojha, Advocate  
For the O.P.No.2 :- Mr. Ranjeet Kumar Saw, Advocate

----

**5/21.10.2022** This petition has been filed for quashing of the entire criminal proceeding as well as the order dated 22.8.2015 passed by the court of learned judicial Magistrate, 1<sup>st</sup> Class, Dhanbad whereby cognizance has been taken and summons has been issued against the petitioner pending in the court of learned Judicial Magistrate 1<sup>st</sup> Class, Dhanbad.

The learned counsel for the petitioner submits that there is allegation against the husband of the petitioner and that too arising out of commercial dispute. He submits that in S.A. which has been brought on record by way of supplementary affidavit the complainant has clearly stated that he has not demanded money from this petitioner who happened to be wife of the accused no.1. He further submits that the order taking cognizance is also not in accordance with law and what are the prima facie materials are not disclosed.

On the other hand, the learned counsel for the O.P.No.2 submits that the petitioner has also taken Rs.5 lakhs which he has disclosed in the counter affidavit. He submits that there is no illegality in the impugned order.

The Court has perused the complaint petition and finds that there are allegations of transaction with regard to opening of a coal depot and for that certain money has been provided by the O.P.No.2 to

the husband of this petitioner. A compromise petition has been filed which is also on record which suggest that accused as well as O.P.No.2 has compromised.

Looking to the cognizance order it transpires that the learned court has taken cognizance however what are the prima facie materials in the said order is not disclosed which is one of the criteria for taking cognizance. For order taking cognizance there is no doubt a detailed order is not required to be passed however prima facie case is required to be disclosed. Moreover on the solemn affirmation the complainant has clearly stated that he is not demanded money from this petitioner and in the S.A he has disclosed before the Court that he is not remembering that he has issued cheque in the name of the petitioner and her husband or not and considering these aspects of the mater the impugned order is set aside.

The matter is remitted back to the concerned learned court for passing a fresh order in accordance with law.

Interim order stands vacated.

Cr.M.P. No. 2627 of 2019 stands disposed of.

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

SI/