IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 540 of 2023

1. Debashis Banerjee @ Devashish Banerjee, aged about 61 years, son of N.K. Banerjee, resident of Bunglow No. B-41, Tata Officers Colony, Digwadih No. 12, P.O. & P.S. –Dhanbad, District –Dhanbad (Jharkhand).
2. Sanjay Rajoria @ Sanjay Rajgadiya, aged about 57 years, son of Ghanshyam Singh Rajoria, resident of G.M. Bungalow Tata Steel (Jharia Division), P.O. Jamadoba, P.S. –Jorapokhar, District –Dhanbad (Jharkhand). .... Petitioners

Versus

1. The State of Jharkhand
2. Bhagwan Sharma, aged about 62 years, son of Late Jagdish Mistry, resident of Bhelatand Colony, P.O. Bhelatand, P.S. Jogta, District – Dhanbad (Jharkhand). …. Opp. Parties

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

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For the Petitioners : Mr. Indrajit Sinha, Advocate
: Mr. Ajay Kr. Sah, Advocate
For the State : Mr. Pankaj Kumar, P.P.
For the O.P. No.2 : Mr. Pratiush Lala, Advocate

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By the Court:-

1. Heard the parties.

2. This criminal miscellaneous petition has been filed invoking the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure with the prayer to quash the entire criminal proceeding in connection with Complaint Case No. 3716 of 2019 including the order dated 19.11.2022, passed by the learned Judicial Magistrate -1st Class, Dhanbad by which the learned Magistrate has found *prima*

facie case for the offences punishable under Section 323/406/504/506/34 of the Indian Penal Code.

3. The allegation against the petitioners is that the petitioner no.1 being the Chief H.R.M. of Jamadoba Colliery and the petitioner no.2 being the General Manager of Jamadoba, Tata Jharia Division, passed an order for vacation of the quarter occupied by the complainant in lieu of giving his land to Tata Company and when the complainant submitted application to the petitioners regarding the said action of the co-accused –Piyush Kumar of disconnecting the connection of water and electricity to his Quarter No. BF -3, the petitioners did not replied to the same.

4. It is submitted by the learned counsel for the petitioners that there is no allegation of causing hurt to the complainant by the petitioners, hence in the absence of that, the offence punishable under Section 323 of the Indian Penal Code is not made out. It is next submitted that there is absolutely no allegation of entrustment of any property to the petitioners, hence the question of dishonest misappropriation of any property against the petitioners does not arise which is essential to constitute the offence punishable under Section 406 of the Indian Penal Code. Therefore, the offence punishable under Section 406 of the Indian Penal Code is also not made out against the petitioners. It is then submitted that there is no allegation against the petitioners of criminally intimidating the complainant or anyone else nor there is any allegation against them of intentionally insulting the complainant or anyone else. In the absence of the same, neither the offence punishable under Section 504 of the Indian Penal Code nor

the offence punishable under Section 506 of the Indian Penal Code is made out. Hence, it is submitted that as none of the offence in respect of which *prima facie* case has been found against the petitioners is made out and the allegations against the petitioners are false, hence, the prayer as prayed for in this criminal miscellaneous petition be allowed.

5. The learned Public Prosecutor and the learned counsel for the opposite party no.2 on the other hand vehemently oppose the prayer as prayed for in this criminal miscellaneous petition and submits that if the allegations against the petitioners are considered to be true in their entirety, then all the offences in respect of which *prima facie* case has been found against the petitioners are in fact, made out. Hence, it is submitted that this criminal miscellaneous petition being without any merit be dismissed.

6. Having heard the rival submissions made at the Bar and after going through the materials available in the record, this Court finds that there is absolutely no allegation against the petitioners of causing hurt to the complainant or anyone else. In the absence of the same, certainly the offence punishable under Section 323 of the Indian Penal Code is not made out even if the allegations made against the petitioners are considered to be true in their entirety.

7. The essential ingredients to constitute the offence punishable under Section 406 of the Indian Penal Code are that:

(i) There must be an entrustment; and

(ii) There must be misappropriation or conversion to one's own use or use in violation of a legal direction or any legal

contract, as has been reiterated by the Hon'ble Supreme Court of India in the case of **Ram Narayan Popli vs. Central Bureau of Investigation** reported in **(2003) 3 SCC 641**.

8. Now coming to the facts of the case, there is no allegation of any entrustment of any property to the petitioners and in the absence of the same, certainly the question of dishonest misappropriation of any property does not arise nor there is any allegation of dishonest misappropriation made by the petitioners.

9. Under such, circumstances, this Court has no hesitation in holding that even if the entire allegations made against the petitioners are considered to be true in their entirety, still the offence punishable under Section 406 of the Indian Penal Code is not made out.

10. To constitute the offence punishable under Section 504 of the Indian Penal Code, there has to be an intentional insult of the victim and to constitute the offence punishable under Section 506 of the Indian Penal Code, there has to be a criminal intimidation. Now, coming to the facts of this case, there is absolutely no allegation against the petitioners of intentionally insulting the complainant or anyone else or criminally intimidating the complainant or anyone else.

11. Under such circumstances, this Court is of the considered view that even if the entire allegations made against the petitioners are considered to be true in their entirety still the offence punishable under Section 506 of the Indian Penal Code is not made out.

12. In view of the discussions made above, as none of the offences in respect of which *prima-facie* case has been found by the learned

Judicial Magistrate –1st Class, Dhanbad, against the petitioners in fact is made out, hence, this Court is of the considered view that continuation of this criminal proceeding against the petitioners will amount to abuse of process of law. Therefore, this is a fit case where the entire criminal proceeding in connection with Complaint Case No. 3716 of 2019 including the order dated 19.11.2022, passed by the learned Judicial Magistrate -1st Class, Dhanbad by which the learned Magistrate has found prima facie case for the offences punishable under Section 323/406/504/506/34 of the Indian Penal Code, be quashed and set aside *qua* the petitioners.

13. Accordingly, the entire criminal proceeding in connection with Complaint Case No. 3716 of 2019 including the order dated 19.11.2022, passed by the learned Judicial Magistrate -1st Class, Dhanbad by which the learned Magistrate has found prima facie case for the offences punishable under Section 323/406/504/506/34 of the Indian Penal Code, is quashed and set aside *qua* the petitioners.

14. In the result, this criminal miscellaneous petition is allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 9th December, 2025
AFR/Sonu-Gunjan/-

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