# IN THE HIGH COURT OF JHARKHAND AT RANCHI
## Cr.M.P. No.1625 of 2022

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Rupa Devi, Aged about 40 years, W/o Manish Kumar Saw, D/o Tej Lal Saw, R/o Purana Bazar (New Janta Market) Dari Muhalla, P.O. & P.S. Bank More, District- Dhanbad;

… Petitioner

***Versus***

1. The State of Jharkhand
2. Gudiya Devi, D/o Late Sambu Saw, R/o Gol Building, Manai Tand, P.O. Bank More, P.S. Dhansar, District Dhanbad.

… Opposite Parties

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For the Petitioner : Mr. Sidharth Sudhanshu, Advocate
Mr. Praveen Shankar Prasad, Advocate
For the State : Mrs. Priya Shrestha, Spl.P.P.
(through VC)
For the OP No.2 : Mr. Raj Nandan Chatterjee, Advocate

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**P R E S E N T**

**HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY**

***By the Court:-*** 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 order dated 07.12.2019 passed in Criminal Revision No. 333 of 2019 by the learned Sessions Judge, Dhanbad arising out of Complaint Case No. 608 of 2019 whereby and where under the learned Sessions Judge, Dhanbad allowed the said criminal revision filed by the opposite party No.2 and quashed the order dated 06.09.2019 passed by the learned Judicial Magistrate-1st Class, Dhanbad, in Complaint Case No. 608 of 2019 in respect of the opposite party No.2.

3. The brief fact of the case is that the petitioner filed Complaint Case No. 608 of 2019 against the opposite party No.2 and others alleging therein that her husband is having illicit relationship with the opposite party No.2 and when the complainant opposed the illicit relationship of her husband with the opposite party No.2 of this Criminal Miscellaneous Petition, the complainant was badly assaulted by her husband. There is also allegation that the opposite party No.2 and her husband took the jewellery of the complainant and the husband of the opposite party No.2 refused to stay with the petitioner. It is also alleged that Gudia Devi and her family members came to the house of the complainant, assaulted and threatened her. On the basis of the materials available in the record, the learned Judicial Magistrate-1st Class, Dhanbad found *prima facie* case for the offences punishable under Sections 498A, 323, 506, 379 of the Indian Penal Code against the opposite party No.2 as well as the husband of the petitioner.

4. Being aggrieved by the said order, the opposite party No.2 of this Criminal Miscellaneous Petition filed Criminal Revision No. 333 of 2019. From the materials placed before the learned Sessions Judge, Dhanbad, the learned Sessions Judge, Dhanbad came to the conclusion that there was some sort of contact and relation with the husband of the opposite party No.2 of this Criminal Miscellaneous Petition till 25.09.2018. There was no allegation of *mar-pit* against her. The subsequent allegation is that on 19.02.2019, the opposite party No.2 of this Criminal Miscellaneous Petition and the husband of the petitioner took away all the jewelleries and cash amounting to Rs.40,000/-. The

said allegation is a general allegation mainly against the husband of the petitioner. From the uncontroverted allegations levelled in the complaint petition and the inquiry witnesses, it appeared to the learned Sessions Judge, Dhanbad that except the allegation of extra-marital relationship of the husband of the complainant, there is no further allegation against the opposite party No.2 herein and found fault with the learned Judicial Magistrate-1st Class, Dhanbad for holding that the *prima facie* case is also made out against the petitioner and the same is an error committed by the learned Judicial Magistrate-1st Class, Dhanbad and the learned Sessions Judge, Dhanbad set aside the said order dated 06.09.2019 so far as it relates to opposite party No.2 of this Criminal Miscellaneous Petition.

5. Learned counsel for the petitioner submits that the order passed by the learned Sessions Judge, Dhanbad is absolutely illegal and perverse. The finding recorded by the learned Sessions Judge, Dhanbad was not tenable. The order passed by the learned Sessions Judge, Dhanbad is without jurisdiction. Hence, it is submitted that the prayer as prayed for in this Criminal Miscellaneous Petition be allowed.

6. Learned Spl.P.P. appearing for the State and the learned counsel for the opposite party No.2 on the other hand vehemently oppose the prayer of the petitioner and submits that since admittedly, the opposite party No.2 is not a relative of the husband of the petitioner, certainly, the offence punishable under Section 498A of the Indian Penal Code is not made out against the opposite party No.2. So far as the offence

punishable under Section 323 of the Indian Penal Code is concerned, it is submitted that there is no allegation against the opposite party No.2 of causing hurt to the complainant or anyone else. Hence, the offence punishable under Section 323 of the Indian Penal Code is not made out. It is then submitted that there is no allegation against the opposite party No.2 of causing criminal intimidation to the complainant or anyone else. Hence, it is submitted that the offence punishable under Section 506 of the Indian Penal Code is not made out. So far as the offence punishable under Section 379 of the Indian Penal Code is concerned, it is submitted that the husband of the complainant and the Opposite party no.2 took away the jewellery. It is further submitted that the property of the petitioner and her husband was joint property so, the stolen property was not in the exclusive possession of the petitioner. Otherwise also, the offence punishable under Section 379 of the Indian Penal Code is not made out against the opposite party No.2. Hence, it is submitted that the learned Sessions Judge, Dhanbad has not committed any error in setting aside the portion of the order dated 06.09.2019 passed by the learned Judicial Magistrate-1st Class, Dhanbad so far as it relates to the Opposite party no.2 of this Criminal Miscellaneous Petition. It is, therefore, submitted that this Criminal Miscellaneous Petition, being without any merit, be dismissed.

7. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the records, it is pertinent to mention here that admittedly, the opposite party No.2 is not a relative of the husband of the petitioner so, certainly, the offence

punishable under Section 498A of the Indian Penal Code cannot be made out against the opposite party No.2. There is no allegation against the opposite party No.2 of specifically causing hurt to the complainant or anyone else and in the absence of the same, the offence punishable under Section 323 of the Indian Penal Code is not made out against the opposite party No.2.

8. So far as the offence punishable under Section 506 of the Indian Penal Code is concerned, it is a settled principle of law as has been held by the Hon'ble Supreme Court of India in the case of in the case of **Vikram Johar vs. State of Uttar Pradesh & Another** reported in **(2019) 14 SCC 207** para-25 of which reads as under :-

> *"25. Now, reverting back to Section 506, which is offence of criminal intimidation, the principles laid down by Fiona Shrikhande [Fiona Shrikhande v. State of Maharashtra, (2013) 14 SCC 44 : (2014) 1 SCC (Cri) 715] has also to be applied when question of finding out as to whether the ingredients of offence are made or not. Here, the only allegation is that the appellant abused the complainant. For proving an offence under Section 506 IPC, what are the ingredients which have to be proved by the prosecution? Ratanlal & Dhirajlal on Law of Crimes, 27th Edn. with regard to proof of offence states the following:*
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> *"… The prosecution must prove:*
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> *(i) That the accused threatened some person.*
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> *(ii) That such threat consisted of some injury to his person, reputation or property; or to the person, reputation or property of someone in whom he was interested;*
>
> *(iii) That he did so with intent to cause alarm to that person; or to cause that person to do any act which he was not legally bound to do, or omit to do any act which he was legally entitled to do as a means of avoiding the execution of such threat."(emphasis supplied)*
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> *A plain reading of the allegations in the complaint does not satisfy all the ingredients as noticed above.''*

wherein the Hon'ble Supreme Court of India laid down the essential ingredients of the offence punishable under Section 506 of the Indian Penal Code.

9. Now coming to the facts of the case, there is no allegation against the opposite party No.2 that she gave any threat with intent to cause alarm to the petitioner or cause the petitioner to do any act which she was not legally bound to do and omit to do any act which she was legally entitled to do. In the absence of the same, this Court has no hesitation in holding that even if the entire allegations made against the opposite party No.2 are considered to be true in their entirety, still the offence punishable under Section 506 of the Indian Penal Code is not made out against the opposite party No.2.

10. So far as the offence punishable under Section 379 of the Indian Penal Code is concerned, the only allegation against the opposite party No.2 is that the opposite party No.2 along with the husband of the complainant took away the jewellery. Now the property of the petitioner and her husband was a common property, so, when the husband of the petitioner accompanied by someone else took away the jewellery, the question of exclusive possession of the petitioner over the jewellery is lacking and in the absence of the same and also considering the facts and circumstances of the case, this Court is of the considered view that even if the entire allegations made against the opposite party No.2 are considered to be true in their entirety, still the offence punishable under Section 379 of the Indian Penal Code is not made out against the opposite party No.2.

11. In view of the discussions made above; since none of the offences in respect of which the *prima facie* case was found by the learned Judicial Magistrate-1st Class, Dhanbad is made out against the

opposite party No.2, hence, this Court is of the considered view that the learned Sessions Judge, Dhanbad has not committed any illegality by setting aside the order dated 06.09.2019 passed by the learned Judicial Magistrate-1st Class, Dhanbad in Complaint Case No. 608 of 2019; so far as it relates to the opposite party No.2 herein warranting interference of this Court in exercise of the power under Section 482 of the Code of Criminal Procedure.

12. Accordingly, this Criminal Miscellaneous Petition, being without any merit, is dismissed.

**(Anil Kumar Choudhary, J.)**

High Court of Jharkhand, Ranchi
Dated the 10th of December, 2025
AFR/ Saroj

Uploaded on 19/12/2025