IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.2529 of 2019

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1. Sukhdev Varnwal, Aged about 49 years, son of Baij Nath Varnwal.

2. Uma Devi, Aged about 43 years, Wife of Sukhdev Varnwal

3. Bipin Kumar Barnwal @ Bipin Modi, Aged about 22 years, S/o Sukhdev Varnwal

4. Rakhi Kumari, Aged about 19 years, Daughter of Sukhdev Varnwal

All Resident of Gopnadih (near Chapra Hotel), P.O. Munidih, P.S. Putki, (Munidih), Dist: Dhanbad … Petitioners

Versus

1. The State of Jharkhand

2. Parvati Devi W/o Sri Ramdeo Modi, Resident of Gopnadih (near Chapra Hotel), P.O: Munidih, P.S: Putki, (Munidih), Dist: Dhanbad

… Opposite Parties

For the Petitioners : Mr. S. Hamidul Haqe, Advocate
For the State : Ms. Lily Sahay, Addl. P.P.
For the O.P. No.2 : None

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- Heard the parties.

2. No one turns up on behalf of the opposite party No.2 in spite of repeated calls.

3. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973 with the prayer to quash the entire criminal proceedings of C.P. Case No.2152 of 2015 which upon being forwarded to police under Section 156 (3) of Cr.P.C, Putki (Munidih) P.S. Case

No.46 of 2018 was registered and after police submitted Final Form; Protest-cum-Complaint petition was filed; which was numbered as C.P. Case No.2870 of 2018 and on the basis of the materials in the record including the Protest-cum-Complaint petition, statement on solemn affirmation of the complainant and the statement of the inquiry witnesses, the learned Judicial Magistrate-1st Class, Dhanbad has found *prima facie* case to issue summons to the petitioners for having committed the offences punishable under Sections 323, 354 and 379 of the Indian Penal Code vide order dated 03.06.2019.

4. Learned counsel for the petitioners submits that though the petitioners have received the summons of the court but they have not appeared in the case as yet. It is next submitted by the learned counsel for the petitioners that the case of the prosecution is quite improbable. It is next submitted that the allegations against the petitioners are false and baseless. It is further submitted that the case has been filed to take revenge by falsely implicating the petitioners. It is then submitted that the court below has not taken cognizance even after lapse of nine years, hence, the same is barred under Section 468 of the Cr.P.C. Therefore, it is submitted that the prayer, as prayed for in the instant Cr.M.P., be allowed.

5. Learned Addl. P.P. appearing for the State on the other hand vehemently oppose the prayer of the petitioners made in the instant Cr.M.P. and submits that there is direct and specific allegation against the petitioners that the petitioner No.1 outraged the modesty of the complainant by removing her *saree*; the petitioners and other co-accused

persons caused hurt to the complainant and her son. There is direct allegation against the petitioners of committing theft of fan, television, silver chain and pressure cooker. Hence, the same is sufficient to constitute the offence punishable under Sections 323, 354 and 379 of the Indian Penal Code. It is next submitted that the only contention of the petitioners is that the allegations against them are false. The same can be considered only during the trial of the case but the undisputed fact remains that if the allegations made against the petitioners are considered to be true in their entirety; then each of the offences in respect of which *prima facie* case was found by the learned Magistrate, is made out. It is next submitted that since the initial complaint was instituted only three days after the occurrence, so, there is no delay in filing the complaint attracting the provision of Section 468 of the Cr.P.C. Hence, it is submitted that this Cr.M.P., being without any merit, be dismissed.

6. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, it is pertinent to mention here that in the case of **Hasmukhlal D. Vora & Another vs. State of Tamil Nadu** reported in **(2022) 15 SCC 164** paragraph-7 of which reads as under:-

> *"**7**. For the quashing of a criminal complaint, the court, when it exercises its power under Section 482CrPC, only has to consider whether or not the allegations in the complaint disclose the commission of a cognizable offence."*

the Hon'ble Supreme Court of India has reiterated the settled principle of law that for quashing of a criminal complaint, the court has

only to consider whether or not the allegations in the complaint disclose the commission of a cognizable offence.

7. Now, coming to the facts of the case, the undisputed fact remains that there is direct and specific allegation against the petitioners of outraging the modesty of the complainant, who is a lady, by removing her *saree,* which is sufficient to constitute the offence punishable under Section 354 of the Indian Penal Code. There is direct allegation against the petitioners of assaulting and causing hurt to the complainant and her son which is sufficient to constitute the offence punishable under Section 323 of the Indian Penal Code.

8. Further, there is specific allegation against the petitioners of committing theft of the fan, television, silver chain and pressure cooker which is sufficient to constitute the offence punishable under Section 379 of the Indian Penal Code. Thus the materials in the record are sufficient to constitute the offences punishable under Sections 323, 354, 379 of the Indian Penal Code. It is not even the case of the petitioners that if the allegations made in the complaint, statement on solemn affirmation of the complainant and the statement of the inquiry witnesses are considered to be true in their entirety, then the offence in respect of which *prima facie* case was found by the Magistrate, is not made out against them, rather it is the contention of the petitioners that the allegations against them are false and the case has been instituted against them only to settle scores because of earlier dispute between them.

9. It is pertinent to mention here that it is a settled principle of law that the defence of an accused person of the case and the veracity of the evidence put forth by the accused cannot be considered in exercise of the power under Section 482 of the Code of Criminal Procedure, 1973 by the High Court as that would be the job of the trial court as has been held by the Hon'ble Supreme Court of India in the case of **State of Madhya Pradesh vs. Awadh Kishore Gupta & Others** reported in **2004 2 Supreme 501.**

10. It is also a settled principle of law that no mini trial can be conducted by the High Court in exercise of the power under Section 482 of Code of Criminal Procedure to get into the appreciation of the evidence of the particular case as has been reiterated by the Hon'ble Supreme Court of India in the case of **State of Uttar Pradesh & Another vs. Akhil Sharda & Others** reported in **2022 SCC OnLine SC 820** relevant portion of which reads as under:-

> *"Having gone through the impugned judgment and order passed by the High court has set aside the criminal proceedings in exercise of powers under Section 482 CrPC, it appears that the High Court has virtually conducted a mini trial, which as such is not permissible at this stage and while deciding the application under Section 482CrPC. As observed and held by this court in a catena of decisions, no mini trial can be conducted by the High Court in exercise of power under Section 482CrPC, jurisdiction and at the stage of deciding the application under Section 482CrPC, the High Court cannot get into appreciation of evidence of the particular case being considering." (Emphasis supplied)*

11. So far as the contention of the petitioners regarding the complaint being barred by Section 468 of the Cr.P.C. is concerned, it is a settled principle of law as has been held by the Constitutional Bench judgment of the Hon'ble Supreme Court of India in the case of **Sara Mathew vs.**

Institute of Cardio Vascular Diseases by its Director Dr. K. M. Cherian & Others reported in **(2014) 2 SCC 62** that for the purpose of computing the period of limitation under Section 468 of Cr.P.C., the relevant date is the date of filing of the complaint or the date of institution of the prosecution and not the date on which the Magistrate takes cognizance.

12. Now, coming to the facts of the case; the complaint was instituted only three days after the institution of the case. Hence, the criminal prosecution and summoning order is not barred by limitation prescribed under Section 468 of the Cr.P.C.

13. In view of the discussions made above, this Court do not find any merit in this Cr.M.P. Accordingly, this Cr.M.P., being without any merit, is dismissed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 01st of December, 2025
AFR/ Animesh
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