IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 794 of 2026

Pramod Jaiswal @ Pramod Kumar Jaiswal, aged about 52 years, son of Radheshyam Jaiswal, resident of Murramkala, P.O. & P.S.-Ramgarh, Dist.-Ramgarh

.... Petitioner

Versus

The State of Jharkhand

…. Opp. Party

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

…..

For the Petitioner : Mrs. Jasvindar Mazumdar Advocate
: Mr. Jazeb Iqbal, Advocate
: Mr. Rohan Mazumdar, Advocate
: Mr. Naveen Kumar, Advocate

For the State : Mrs. Laxmi Murmu, GP I
: Mr. Saurav Mahto, AC to GP I

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By the Court:-

I.A. No.6284 of 2026

1. Heard the parties.

2. This interlocutory application has been filed with the prayer for early hearing of this criminal miscellaneous petition.

3. Since, hearing of this criminal miscellaneous petition is taken up today, hence, this interlocutory application is disposed of being infructuous.

(Anil Kumar Choudhary, J.)

Cr.M.P. No. 794 of 2026

1. Heard the parties.

2. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 528 of B.N.S.S., 2023 with the prayer to quash the entire criminal proceeding including the FIR in connection with S.T. Case No.153 of 2025 arising out of Mandu (Kuju) P.S. Case No.171 of 2023 registered for the offences punishable under sections 147, 148, 149, 323, 307, 504, 506, 120B IPC and under section 25(1-B)(a), 26, 35, 25 (1-AAA) of Arms Act. Further prayer has been made to quash and set aside the order dated 16.12.2025 passed by the learned Additional Sessions Judge-I-cum-Special Judge, FTC, Ramgarh whereby and whereunder the learned Additional Sessions Judge-I-cum-Special Judge, FTC, Ramgarh has framed charges against the petitioner in connection with the aforesaid case for having committed the offence punishable under section 147, 148, 149, 323, 307, 504, 506 of IPC and Sections 25 (1- AAA)/35, 26(2) and 35 of Arms Act. and the case is currently pending before the Court of learned Additional Sessions Judge-I-cum-Special Judge, FTC, Ramgarh.

3. The brief facts of the case is that Mandu (Kuju) P.S. Case No.170 of 2023 was registered for the occurrence which took place on 13.08.2023 at 12:00 Noon and the allegation is that the petitioners herein along with the co-accused persons were demolishing the boundary wall constructed on the land of the informant by using J.C.B. Machine and on being protested by the informant and his associates, the petitioners fired upon Janki Yadav and Pawan Kumar Yadav causing them gunshot injury.

4. Mandu (Kuju) P.S. Case No.171 of 2023 has been registered on the basis of self-statement of Sub-Inspector of Police who reached the place of occurrence after getting information of the occurrence in respect of which the F.I.R. of Mandu (Kuju) P.S. Case No.170 of 2023 has been registered and police apprehended the petitioners who are also the accused of Mandu (Kuju) P.S. Case No.170 of 2023 and recovered fire arms and ammunition from them.

5. Learned counsel for the petitioner relies upon the judgment of this Court in the case of **Manish Varma & Another vs. The State of Jharkhand & Another** passed in Cr.M.P. No.1735 of 2023 dated 06.05.2024 and submits that therein this Court relied upon the judgment of the Hon'ble Supreme Court of India in the case of **T.T. Antony vs. State of Kerala & Others** reported in **(2001) 6 SCC 181** wherein the Hon'ble Supreme Court of India has held that a fresh investigation based on second or successive F.I.Rs not being a counter-case filed in connection with the same or connected cognizable offence alleged to have been committed in the course of the same transaction and in respect of which pursuant to the first F.I.R., either investigation is under way or final report under Section 173(2) Cr.P.C has been forwarded to the Magistrate, may be a fit case for exercise of power under Section 482 Cr.P.C. or under Articles 226/227 of the Constitution.

6. Learned counsel for the petitioner next submit that in that case this Court also relied upon the judgment of the Hon'ble Supreme Court of India in the case of **Prem Chand Singh vs. State of Uttar**

Pradesh & Another reported in **(2020) 3 SCC 54** paragraph-11 of which reads as under:-

> *"11. It is, therefore, apparent that the subject-matter of both the FIRs is the same general power of attorney dated 2-5-1985 and the sales made by the appellant in pursuance of the same. If the substratum of the two FIRs are common, the mere addition of Sections 467, 468 and 471 in the subsequent FIR cannot be considered as different ingredients to justify the latter FIR as being based on different materials, allegations and grounds." (Emphasis supplied)*

and submits that since the substratum of the two F.I.Rs are common, the mere addition of certain offences in the subsequent F.I.R. cannot be considered as different ingredients to justify Mandu (Kuju) P.S. Case No.171 of 2023.

7. It is next submitted by the learned counsel for the petitioner that in that case, this Court also relied upon the judgment of the Hon'ble Supreme Court of India in the case of **Amitbhai Anilchandra Shah vs. Central Bureau of Investigation & Another** reported in **(2013) 6 SCC 348**, paragraph-58.3 of which reads as under:-

> *"58.3. Even after filing of such a report, if he comes into possession of further information or material, there is no need to register a fresh FIR, he is empowered to make further investigation normally with the leave of the court and where during further investigation, he collects further evidence, oral or documentary, he is obliged to forward the same with one or more further reports which is evident from sub-section (8) of Section 173 of the Code. Under the scheme of the provisions of Sections 154, 155, 156, 157, 162, 169, 170 and 173 of the Code, only the earliest or the first information in regard to the commission of a cognizable offence satisfies the requirements of Section 154 of the Code. Thus, there can be no second FIR and, consequently, there can be no fresh investigation on receipt of every subsequent information in respect of the same cognizable offence or the same occurrence or incident*

> *giving rise to one or more cognizable offences." (Emphasis supplied)*

8. It is then submitted by the learned counsel for the petitioner that this Court has also referred to the judgment of the Hon'ble Supreme Court of India in the case of **C. Muniappan & Others vs. State of Tamil Nadu** reported in **(2010) 9 SCC 567** wherein the Hon'ble Supreme Court of India has referred to the consequence test by observing that if any part of second F.I.R. arises as a consequence of the offence alleged in the first F.I.R.; then the offences covered by both the F.I.Rs are the same and accordingly, the second F.I.R. will be impermissible in law or in other words, the offence covered in both the F.I.Rs shall have to be treated as part of the first F.I.R.

9. Learned counsel for the petitioner also relies upon the judgment of the Hon'ble Supreme Court of India in the case of **Anand Kumar Mohatta & Another vs. State (NCT of Delhi), Department of Home & Another** reported in **(2019) 11 SCC 706** paragraph-16 of which reads as under:-

> *"16. There is nothing in the words of this section which restricts the exercise of the power of the Court to prevent the abuse of process of court or miscarriage of justice only to the stage of the FIR. It is settled principle of law that the High Court can exercise jurisdiction under Section 482 CrPC even when the discharge application is pending with the trial court [G. Sagar Suri v. State of U.P., (2000) 2 SCC 636, para 7 : 2000 SCC (Cri) 513. Umesh Kumar v. State of A.P., (2013) 10 SCC 591, para 20 : (2014) 1 SCC (Cri) 338 : (2014) 2 SCC (L&S) 237] . Indeed, it would be a travesty to hold that proceedings initiated against a person can be interfered with at the stage of FIR but not if it has advanced and the allegations have materialised into a charge-sheet. On the contrary it could be said that the abuse of process caused by FIR stands*

> *aggravated if the FIR has taken the form of a charge-sheet after investigation. The power is undoubtedly conferred to prevent abuse of process of power of any court." (Emphasis supplied)*

and submits that therein the Hon'ble Supreme Court of India has reiterated that even when the discharge application is pending with the trial court; High Court can exercise the jurisdiction under Section 482 of the Code of Criminal Procedure to prevent abuse of process of court or miscarriage of justice.

10. Learned counsel for the petitioner lastly relies upon the judgment of the Hon'ble Supreme Court of India in the case of **State of Punjab vs. Davinder Pal Singh Bhullar & Others** reported in **(2011) 14 SCC 770** paragraph-107 of which reads as under:-

> *"107. It is a settled legal proposition that if initial action is not in consonance with law, all subsequent and consequential proceedings would fall through for the reason that illegality strikes at the root of the order. In such a fact situation, the legal maxim sublato fundamento cadit opusmeaning thereby that foundation being removed, structure/work falls, comes into play and applies on all scores in the present case." (Emphasis supplied)*

and submits that therein the Hon'ble Supreme Court of India has reiterated the settled proposition of law that if initial action is not in consonance with law, all subsequent and consequential proceedings would fall through for the reason that illegality strikes at the root of the order. Hence, it is submitted that the prayer as prayed by the petitioner in this Cr.M.P. be allowed.

11. Learned counsel appearing for the State on the other hand vehemently opposes the prayer of the petitioner made in this criminal miscellaneous petition.

12. 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 it is a settled principle of law as has categorically been mentioned in paragraph-27 of the case **of T.T. Antony vs. State of Kerala & Others** (supra) that a second F.I.R. is not maintainable unless it is a counter case. It is also a settled principle of law as has been held in the case of **Prem Chand Singh vs. State of Uttar Pradesh & Another** (supra) that if the substratum of the two F.I.Rs are common, the mere addition of some additional section in the subsequent F.I.R. cannot be considered as different ingredients, to justify latter F.I.R.

13. Now coming to the consequence test as has been laid down by the Hon'ble Supreme Court of India in the case of **C. Muniappan & Others vs. State of Tamil Nadu** (supra), to the facts of this case, this Court is of the considered view that the offence forming part of the second F.I.R. i.e. recovery of ammunition arises as a consequence of the offence committed in the first F.I.R. i.e. the Mandu (Kuju) P.S. Case No.170 of 2023. Thus, the offences covered by both the F.I.Rs in connection with Mandu (Kuju) P.S. Case No.170 of 2023 and Mandu (Kuju) P.S. Case No.171 of 2023 are same. Hence, the F.I.R. of Mandu (Kuju) P.S. Case No.171 of 2023 is impermissible in law and the offences covered by both the

F.I.Rs shall have to be treated as part of the Mandu (Kuju) P.S. Case No.170 of 2023. Therefore, the F.I.R. of Mandu (Kuju) P.S. Case No.171 of 2023 is hit by Section 162 of the Code of Criminal Procedure. Hence, continuation of the entire criminal proceeding including the First Information Report in connection with Mandu (Kuju) P.S. Case No.171 of 2023 and the proceedings in connection with S.T. Case No.153 of 2025 will amount to abuse of process of law. Therefore, this is a fit case where the entire criminal proceeding including the First Information Report in connection with S.T. Case No.153 of 2025 arising out of Mandu (Kuju) P.S. Case No.171 of 2023 of the court of Additional Sessions Judge-I-cum-Special Judge, FTC, Ramgarh, be quashed and set aside *qua* the petitioner only.

14. Accordingly, the entire criminal proceeding including the First Information Report in connection with S.T. Case No.153 of 2025 arising out of Mandu (Kuju) P.S. Case No.171 of 2023 of the court of Additional Sessions Judge-I-cum-Special Judge, FTC, Ramgarh, is quashed and set aside *qua* the petitioner only.

15. In the result, this Criminal Miscellaneous Petition is allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 5th May, 2026
AFR/Gunjan/-

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