IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 942 of 2026

1. Ursila Toppo, aged about 69 years, w/o Micheal Toppo,
2. Savita Soni Toppo, aged about 38 years, d/o Micheal Toppo

Both r/o Lowadih, Harijan Basti, P.O. & P.S.-Namkum, Dist.-Ranchi, Jharkhand

.... Petitioners

Versus

1. The State of Jharkhand
2. Rekha Ekka, d/o late Patrik Ekka, w/o Sujeet Madhukar Toppo, r/o Prem Nagar, Madhuban Toli, P.O.+P.S.-Lohardaga, Dist.-Lohardaga, Jharkhand

…. Opp. Parties

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

…..

For the Petitioners : Mr. Suraj Verma, Advocate
: Mr. Anjani Kumar, Advocate
For the State : Mr. Shailendra Kr. Tiwari, Spl. P.P.
For O.P. No.2 : None

…..

By the Court:-

I.A. No.15684 of 2026

1. Heard the parties.

2. Learned counsel for the petitioners submits that this interlocutory application has been filed with the prayer to amend the Cr.M.P. No. 942 of 2026 by incorporating the additional prayer to quash the order dated 10.08.2026 passed by the learned Chief Judicial Magistrate, Lohardaga in connection with Lohardaga Mahila P.S. Case No. 23 of 2024, corresponding to G.R. No. 311 of 2025 whereby and where under, the learned Chief Judicial

Magistrate, Lohardaga has framed charges against the petitioners in paragraph no.1 and prayer portion of this criminal miscellaneous petition and also to insert paragraph no.19A between paragraph no.19 and 20 in support of the said additional prayer. It is next submitted that the proposed amendment was necessitated because of the developments which took place after filing of this criminal miscellaneous petition and the proposed amendment will not change the nature and character of this criminal miscellaneous petition. It is lastly submitted that unless the proposed amendment is allowed, the petitioners will be highly prejudiced.

3. Considering the aforesaid facts, the prayer for amendment made in this interlocutory application is allowed.

4. Learned counsel for the petitioners file the said consolidated criminal miscellaneous petition. Keep the same in the record.

5. This interlocutory application is disposed of accordingly.

(Anil Kumar Choudhary, J.)

Cr.M.P. No. 942 of 2026

1. Heard the parties.

2. Though notice has validly been served upon the opposite party no.2 yet 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 528 of B.N.S.S., 2023 with the prayer to quash the entire criminal proceeding including the order dated 21.08.2025 passed by the learned Chief Judicial Magistrate, Lohardaga in connection with Lohardaga Mahila P.S. Case No. 23 of 2024, corresponding to G.R. No. 311 of 2025, whereby and where under, the learned Chief Judicial Magistrate, Lohardaga has taken cognizance of the offences punishable under Sections 85, 115(2), 126(2), 352 and 351 (2) of the B.N.S., 2023 as also the order dated 10.08.2026 passed by the learned Chief Judicial Magistrate, Lohardaga in connection with the said case; by which the learned Chief Judicial Magistrate, Lohardaga has framed charges for the aforesaid offences.

4. The allegation against the petitioners is that the petitioner no.1 being the mother-in-law and the petitioner no.2 being the sister-in-law did not allow the informant to enter into her matrimonial house at Lowadih and insulted her. The main grievance of the informant is against her husband being co-accused-Sujeet Madhukar Toppo. The allegation of assault and taking of dowry is against the

husband of the informant and the allegation of threatening is against the lady namely Artima Xess with whom the informant alleges her husband to be having illicit relationship and demand of Rs.3,00,000/- is made against her.

5. On the basis of the written report submitted by the informant, police registered Lohardaga Mahila P.S. Case No. 23 of 2024 and took up investigation of the case. After completion of investigation, police submitted charge sheet *inter alia* against the petitioners for having committed the offence punishable under Sections 85, 115(2), 126(2), 352 and 351 (2) of the B.N.S., 2023 and the learned Chief Judicial Magistrate, Lohardaga vide order dated 21.08.2025 in the said Lohardaga Mahila P.S. Case No. 23 of 2024, corresponding to G.R. No. 311 of 2025 took cognizance of the said offence and on 10.08.2026 framed charges of the said offences.

6. Learned counsel for the petitioners at the outset submits that the case is next fixed on 15.01.2027 but so far, no witnesses have been examined.

7. It is submitted by the learned counsel for the petitioners that there is absolutely no allegation against the petitioners of ever causing hurt to the informant so the offence punishable under Section 115(2) of the B.N.S., 2023 is not made out against the petitioners. So far as the

offence punishable under Section 351(2) of the B.N.S., 2023 is concerned, it is submitted by the learned counsel for the petitioners that the allegation of threatening is against Artima Xess and not against the petitioners, so, the offence punishable under Section 351(2) of the B.N.S., 2023 is also not made out. So far as the offence punishable under Section 85 of B.N.S., 2023 is concerned, it is submitted by the learned counsel for the petitioners that the only allegation against the petitioners is that they did not allow the informant to enter her matrimonial house and that by itself is not sufficient to constitute the offence punishable under Section 85 of B.N.S., 2023; so the offence punishable under Section 85 of B.N.S., 2023 is also not made out against the petitioners. So far as the offence punishable under Section 126(2) of the B.N.S., 2023 is concerned, it is submitted by the learned counsel for the petitioners that there is no allegation against the petitioners of wrongfully restraining the informant and in the absence of the same, the offence punishable under Section 126(2) of B.N.S., 2023 is not made out against the petitioners. It is further submitted by the learned counsel for the petitioners that the offence punishable under Section 352 of B.N.S., 2023 is also not made out in the absence of any allegation that insult of the informant was of such a nature by which provocation was given to the informant for causing her to

break public peace or any other offence. It is next submitted by the learned counsel for the petitioners that the allegations against the petitioners are general and omnibus in nature.

8. Relying upon the judgment of the Hon'ble Supreme Court of India in the case of **Preeti Gupta & Anr. vs. State of Jharkhand & Anr.** reported in **(2010) 7 SCC 667**, it is submitted by the learned counsel for the petitioners that para-20 of the judgment, the Hon'ble Supreme Court of India relied upon its own judgment in the case of **R.P. Kapur vs. State of Punjab** reported in **AIR 1960 SC 866** wherein the Hon'ble Supreme Court of India summarized some categories of cases where inherent power can and should be exercised to quash the proceedings. The relevant portion of which reads as under:-

> *"20. This Court had occasion to examine the legal position in a large number of cases. In R.P. Kapur v. State of Punjab [AIR 1960 SC 866 : 1960 Cri LJ 1239] this Court summarised some categories of cases where inherent power can and should be exercised to quash the proceedings:*
>
> *(i) where it manifestly appears that there is a legal bar against the institution or continuance of the proceedings;*
>
> *(ii) where the allegations in the first information report or complaint taken at their face value and accepted in their entirety do not constitute the offence alleged;*
>
> *(iii) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge."*

9. Hence, it is submitted that the prayer as prayed for by the petitioners in this criminal miscellaneous petition be allowed.

10. Learned Spl. P.P. on the other hand vehemently opposes the prayer of the petitioners and submits that the allegations against the petitioners are sufficient to constitute each of the offences in respect of which charge has been framed against the petitioners. Hence, it is submitted that this criminal miscellaneous petition being without any merit be dismissed.

11. 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 the Hon'ble Supreme Court of India in the case of **Neelu Chopra & Another vs. Bharti** reported in **(2009) 10 SCC 184** in the facts of that case observed thus, in para-9 and 10 of said judgment which reads as under:-

> *"9. In order to lodge a proper complaint, mere mention of the sections and the language of those sections is not the be all and end all of the matter. What is required to be brought to the notice of the court is the particulars of the offence committed by each and every accused and the role played by each and every accused in committing of that offence.*
> *10. When we see the complaint, the complaint is sadly vague. It does not show as to which accused has committed what offence and what is the exact role played by these appellants in the commission of offence. There could be said something against Rajesh, as the allegations are made against him more precisely but he is no more and has already expired. Under such circumstances, it would be an abuse of the process of law to allow the prosecution*

> *to continue against the aged parents of Rajesh, the present appellants herein, on the basis of a vague and general complaint which is silent about the precise acts of the appellants."*

and quashed the entire criminal proceeding against the aged parents of the husband as the allegations were vague and general; which was silent about the precise act of the appellants before the Hon'ble Supreme Court of India.

12. Now coming to the facts of the case so far as the offence punishable under Section 115(2) of the B.N.S., 2023 is concerned, the essential ingredients to constitute the said offence are:-

(i) *Accused voluntarily caused bodily pain, disease or infirmity to the victim;*
(ii) *The accused did so with intention of causing hurt or with the knowledge that he would thereby cause hurt to the victim.*

13. Now coming to the facts of the case, the allegation of assault upon the informant is only upon her husband. There is absolutely no allegation of assault or causing hurt to the informant by the petitioners. Under such circumstances, this Court is no hesitation in holding that even if the allegations made against the petitioners are considered to be true in their entirety, still the offence punishable under section 115(2) of the B.N.S., 2023 is not made out against either of the petitioners. Therefore, the learned court below has committed a grave illegality by

framing charge against the petitioners for the offence punishable under Section 115(2) of the B.N.S., 2023.

14. So far as the offence punishable under Section 351(2) of B.N.S., 2023 is concerned, the essential ingredients to constitute the said offence are:-

(i) The accused threatened someone with injury to his person, reputation or property, or to the person, reputation or property of another in whom the former was interested;
(ii) The accused did so with intent to cause alarm to the victim of offence;
(iii) The accused did so to cause the victim to perform any act which he was not legally bound to do.

15. Now coming to the facts of the case, there is absolutely no allegation against the petitioners of threatening the informant in any manner rather the allegation of threatening is against Artima Xess, so, even if the entire allegation made against the petitioners are considered to be true in its entirety, still, the offence punishable under Section 351(2) of the B.N.S., 2023 is not made out against either of the petitioners.

16. So far as the offence punishable under Section 85 of B.N.S., 2023 is concerned, the essential ingredients to constitute the said offence are:-

(1) A woman was married;
(2) She was subjected to cruelty;
(3) Such cruelty consisted in-
(i) Any wilful conduct as was likely to drive such woman to commit suicide or to cause grave injury or danger to her life, limb or health whether mental or physical;
(ii) Harm to such woman with a view of coercing her to meet unlawful demand for

property or valuable security or on account of failure of such woman or any of her relations to meet the lawful demand;

(iii) The woman was subjected to such cruelty by her husband or any relation of her husband

as has been held by the Hon'ble Supreme Court of India in the case of **Sushil Kumar vs. Union of India** reported in **(2005) 6 SCC 281**.

17. Now coming to the facts of the case, the only allegation against the petitioners is that that petitioners did not allow the informant to enter into her ancestral matrimonial house and they insulted her and apart from that there is absolutely no allegation against the petitioners so, in the considered opinion of this Court even if the entire allegation made against the petitioners are considered to be true in its entirety, still the same are insufficient to constitute the offence punishable under Section 85 of the B.N.S., 2023.

18. So far as the offence punishable under Section 126(2) of B.N.S., 2023 is concerned, the essential ingredients to constitute the said offence are:-

(i) Accused obstructed a person;
(ii) He did it voluntarily;
(iii) It prevented such person from proceeding in certain direction in which he had the right to proceed;

19. Now coming to the facts of the case, there is absolutely no allegation against the petitioners of obstructing anyone and in the absence of this essential

ingredient, this Court is of the considered view that even if the entire allegation made against the petitioners are considered to be true in its entirety, still, the same is not sufficient to constitute the offence punishable under Section 126(2) of the B.N.S., 2023.

20. So far as the offence punishable under Section 352 of B.N.S., 2023 is concerned, the essential ingredients to constitute the said offence are:-

(i) The accused intentionally insulted someone'
(ii) He thereby intended to give him provocation;
(iii) He knew that it was likely that such provocation would cause that person to commit a breach of the peace or to commit any other offence.

21. Now coming to the facts of the case, the only allegation against the petitioners is that the petitioners insulted the informant but there is no allegation against the petitioners that the insult was of such type so as to give provocation to the informant to commit breach of peace or any other offence and in the absence of this essential ingredient, this Court is of the considered view that even if the entire allegation made against the petitioners are considered to be true in their entirety, still, the offence punishable under Section 352 of the B.N.S., 2023 is not made out.

22. In view of the discussions made above, as none of the offence in respect of which charge has been framed is made out against the petitioners even if the entire

allegation made against the petitioners are considered to be true in its entirety, hence, this Court is of the considered view that continuation of the criminal proceeding against the petitioners will amount to abuse of process of law and this is a fit case where the entire criminal proceeding including the order dated 21.08.2025 passed by the learned Chief Judicial Magistrate, Lohardaga in connection with Lohardaga Mahila P.S. Case No. 23 of 2024, corresponding to G.R. No. 311 of 2025 as also the order dated 10.08.2026 passed by the learned Chief Judicial Magistrate, Lohardaga in connection with the said case be quashed and set aside *qua* the petitioners.

23. Accordingly, the entire criminal proceeding including the order dated 21.08.2025 passed by the learned Chief Judicial Magistrate, Lohardaga in connection with Lohardaga Mahila P.S. Case No. 23 of 2024, corresponding to G.R. No. 311 of 2025 as also the order dated 10.08.2026 passed by the learned Chief Judicial Magistrate, Lohardaga in connection with the said case is quashed and set aside *qua* the petitioners.

24. In the result, this criminal miscellaneous petition is allowed to the aforesaid extent only.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 3rd November, 2026
AFR/Gunjan/-

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