IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.1090 of 2026

Pratima Raven, aged about 61 years, W/O Milton Kujur, Resident of Bank Colony, Near Jesus Mary School Korrah, P.O.- Korrah, P.S.- Korrah, District- Hazaribagh, (Jharkhand)

… Petitioner

Versus

The State of Jharkhand … Opposite Party

For the Petitioner : Mr. Awnish Shankar, Advocate
For the State : Mrs. Nehala Sharmin, Spl.P.P.

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 528 of the B.N.S.S., 2023 with the prayer to quash the entire criminal proceedings including the order taking cognizance dated 28.06.2024 passed by the learned Chief Judicial Magistrate, Hazaribagh in connection with Sadar P.S. Case No. 1018 of 2014 corresponding to G.R. Case No. 4164 of 2014 whereby and where under the learned court below has taken cognizance of the offences punishable under Sections 409 and 420 of the Indian Penal Code basing upon the charge sheet submitted by the police against the petitioner after the investigation of the case.

3. The allegation against the petitioner is that the petitioner was the cashier of Jharkhand Gramin Bank, Korrah Chowk Branch and in that capacity, has dishonestly misappropriated the soiled notes deposited with the said Bank. On the basis of the written report submitted by the

informant, police registered Sadar P.S. Case No. 1018 of 2014 and took up investigation of the case. Though the F.I.R. was registered against the cashiers namely Ramakant Sinha and Manmeet Kumar Sinha but during the course of the investigation, it was found out that Manmeet Kumar Sinha has not committed any offence. The employer of the petitioner granted sanction for prosecution of the petitioner. During the investigation, it came to light that the petitioner and the named co-accused person namely Ramakant Sinha have committed the said offence and finding thus, charge sheet was submitted against the petitioner; basing upon which, the learned Chief Judicial Magistrate, Hazaribagh has taken cognizance of the said offences in respect of which the charge sheet was submitted.

4. Learned counsel for the petitioner relies upon the judgment of the Hon'ble Supreme Court of India in the case of **Sharif Ahmed & Another vs. State of Uttar Pradesh & Another** reported in **2024 INSC 363** and submits that therein, the Hon'ble Supreme Court of India has observed that the investigating officer must make clear and complete entries of all columns in the charge sheet so that the court can clearly understand which crime has been committed by which accused and what is the material evidence available on the file. Learned counsel for the petitioner next submits that the police, in this case, has submitted a perfunctory charge sheet. It is then submitted that the allegation against the petitioner is false. It is further submitted that the petitioner was not the cashier during the relevant period of time. Hence, it is

submitted that the prayer as prayed for in this Criminal Miscellaneous Petition be allowed.

5. Learned Spl.P.P. appearing for the State on the other hand vehemently opposes the prayer of the petitioner made in this Criminal Miscellaneous Petition and submits that in this case, the police has mentioned the details of the offences of the petitioner in the charge sheet. Page No.2 of the charge sheet at serial No.11 is dedicated to the petitioner. It is next submitted that the charge sheet was submitted by the police and the case-diary also contains the materials including the sanction for prosecution, that was accorded by the employer of the petitioner, on being satisfied that she was squarely responsible for the embezzlement of Rs.4,34,110/-by way of dishonest misappropriation of the soiled notes. It is then submitted that since cognizance has been taken by the learned Chief Judicial Magistrate, Hazaribagh basing upon the charge sheet submitted by the police after investigation of the case, hence, at this stage before consideration of charge by the learned Court concerned, it will be premature to pre-judge the issue at this stage which is not desirable in exercise of the power under Section 528 of the B.N.S.S., 2023; when the learned Judicial Magistrate has to take call in the matter of framing of charges. 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 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 **H.N. Rishbudand Another vs. State of Delhi** reported in **(1954) 2 SCC 934**, paragraph No.13 of which reads as under:-

> *"13. The question then requires to be considered whether and to what extent the trial which follows such investigation is vitiated. Now, trial follows cognizance and cognizance is preceded by investigation. This is undoubtedly the basic scheme of the Code in respect of cognizable cases. But it does not necessarily follow that an invalid investigation nullifies the cognizance or trial based thereon. Here we are not concerned with the effect of the breach of a mandatory provision regulating the competence or procedure of the court as regards cognizance or trial. It is only with reference to such a breach that the question as to whether it constitutes an illegality vitiating the proceedings or a mere irregularity arises. A defect or illegality in investigation, however serious, has no direct bearing on the competence or the procedure relating to cognizance or trial. No doubt a police report which results from an investigation is provided in Section 190 CrPC as the material on which cognizance is taken. But it cannot be maintained that a valid and legal police report is the foundation of the jurisdiction of the court to take cognizance. Section 190 CrPC is one out of a group of sections under the heading "Conditions requisite for initiation of proceedings". The language of this section is in marked contrast with that of the other sections of the group under the same heading i.e. Sections 193 and 195 to 199. These latter sections regulate the competence of the court and bar its jurisdiction in certain cases excepting in compliance therewith. But Section 190 does not. While no doubt, in one sense, clauses (a), (b) and (c) of Section 190(1) are conditions requisite for taking of cognizance, it is not possible to say that cognizance on an invalid police report is prohibited and is therefore a nullity. Such an invalid report may still fall either under clause (a) or (b) of Section 190(1), (whether it is the one or the other we need not pause to consider) and in any case cognizance so taken is only in the nature of error in a proceeding antecedent to the trial. To such a situation Section 537 CrPC which is in the following terms is attracted:*
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> > ***"537. Finding or sentence when reversible by reason of error or omission in charge or other proceedings.—****Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a court of competent jurisdiction shall be reversed or altered … on appeal or revision on account –*
> >
> > *(a) of any error, omission or irregularity in the complaint, summons, warrant, charge, proclamation, order, judgment or other proceedings before or during trial or in any enquiry or other proceedings under this Code,*
> >
> > ***

> *unless such error, omission, irregularity or misdirection has in fact occasioned a failure of justice."*
>
> *If, therefore, cognizance is in fact taken, on a police report vitiated by the breach of a mandatory provision relating to investigation, there can be no doubt that the result of the trial which follows it cannot be set aside unless the illegality in the investigation can be shown to have brought about a miscarriage of justice. That an illegality committed in the course of investigation does not affect the competence and the jurisdiction of the court for trial is well-settled as appears from the cases in Parbhu v. King Emperor [Parbhu v. King Emperor, 1944 SCC OnLine PC 1 : (1943-44) 71 IA 75 : AIR 1944 PC 73] and Lumbhardar Zutshi v. R. [Lumbhardar Zutshi v. R., 1949 SCC OnLine PC 64 : (1949-50) 77 IA 62 : AIR 1950 PC 26] These no doubt relate to the illegality of arrest in the course of investigation while we are concerned in the present cases with the illegality with reference to the machinery for the collection of the evidence. This distinction may have a bearing on the question of prejudice or miscarriage of justice, but both the cases clearly show that invalidity of the investigation has no relation to the competence of the court. We are, therefore, clearly, also, of the opinion that where the cognizance of the case has in fact been taken and the case has proceeded to termination, the invalidity of the precedent investigation does not vitiate the result, unless miscarriage of justice has been caused thereby." (Emphasis supplied)*

has laid down the law that if cognizance is, in fact, taken on a police report vitiated by the breach of a mandatory provision relating to investigation, there can be no doubt that the result of the trial which follows it, cannot be set aside unless the illegality in the investigation can be shown to have brought about a miscarriage of justice.

7. It is a settled principle of law as has been held by the Hon'ble Supreme Court of India in the case of **State of Gujarat vs. Girish Radhakrishnan Varde** reported in **(2014) 3 SCC 659**, para-15 of which reads as under:-

> *"15. The question, therefore, emerges as to whether the complainant/informant/prosecution would be precluded from seeking a remedy if the investigating authorities have failed in their duty by not including all the sections of IPC on which offence can be held to have been made out in spite of the facts disclosed in the FIR. The answer obviously has to be*

> *in the negative as the prosecution cannot be allowed to suffer prejudice by ignoring exclusion of the sections which constitute the offence if the investigating authorities for any reason whatsoever have failed to include all the offences into the charge-sheet based on the FIR on which investigation had been conducted. But then a further question arises as to whether this lacunae can be allowed to be filled in by the Magistrate before whom the matter comes up for taking cognizance after submission of the charge-sheet and as already stated, the Magistrate in a case which is based on a police report cannot add or subtract sections at the time of taking cognizance as the same would be permissible by the trial court only at the time of framing of charge under Sections 216, 218 or under Section 228 CrPC as the case may be which means that after submission of the charge-sheet it will be open for the prosecution to contend before the appropriate trial court at the stage of framing of charge to establish that on the given state of facts the appropriate sections which according to the prosecution should be framed can be allowed to be framed. Simultaneously, the accused also has the liberty at this stage to submit whether the charge under a particular provision should be framed or not and this is the appropriate forum in a case based on police report to determine whether the charge can be framed and a particular section can be added or removed depending upon the material collected during investigation as also the facts disclosed in the FIR and the charge-sheet." (Emphasis supplied)*

that the Magistrate in a case which is based on a police report, cannot add or subtract sections at the time of taking cognizance as the same would be permissible by the trial court only at the time of framing of charge.

8. Now coming to the facts of the case, there is direct and specific allegation against the petitioner that the petitioner dishonestly misappropriated the soiled notes worth Rs.4,34,110/-. The employer of the petitioner on being satisfied about the material against the petitioner, has accorded sanction for prosecution of the petitioner. During the investigation of the case, the involvement of the petitioner

was established; which has been mentioned in detail in the case-diary of the case.

9. Under such circumstances, this Court is of the considered view that it will not be proper to quash the entire criminal proceedings by taking into consideration of defence that she is not liable for being prosecuted, for having committed the offence alleged against her, as it is a settled principle of law that the High Court in exercise of its power under Section 482 of the Code of Criminal Procedure (which corresponds to Section 528 of the B.N.S.S., 2023) cannot consider the defence of the accused person of the case or the veracity of the evidence put forth by the accused, 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 its power under Section 482 of the Code of Criminal Procedure (which corresponds to Section 528 of the B.N.S.S., 2023) as has been held by the Hon'ble Supreme Court of India in the case of **State of Uttar Pradesh & Another vs. Akhil Sharda & Others** reported in **2022 LiveLaw SC 594**, the 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 482 CrPC. 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 482 CrPC, jurisdiction and at the stage*

> *of deciding the application under Section 482 CrPC, the High Court cannot get into appreciation of evidence of the particular case being considering. (Emphasis supplied)"*

11. The undisputed fact remains that the police after investigation of the case, filed the charge sheet against the petitioner. Under such circumstances; when charge is yet to be framed, it will be premature to quash the entire criminal proceedings against the petitioner which is continuing on the basis of the final report submitted by the police, after investigation of the case, the details of which has been mentioned in the case diary; of course which is not before this Court, as the same has not been brought on record by the petitioner, for reasons best known to her. Therefore, this Court is of the considered view that this is not a fit case where the prayer of the petitioner, as made in this Criminal Miscellaneous Petition is to be acceded to by this Court in exercise of its power under Section 528 of the B.N.S.S., 2023.

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

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 23rd of April, 2026
AFR/ Saroj

Uploaded on 27/04/2026