IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.1386 of 2024
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1. Abu Fazal @ Fazal Shekh, aged about 43 years, Son of Abdul Hafeez
2. Fouzia Hasan, aged about 41 years, Wife of Abu Fazal

Both are residents of Zakariya Colony, Sadpura, Muzaffarpur, Musahri, P.O. and P.S. Mushahri, District – Muzaffarpur, Bihar, 842002 … Petitioners

Versus

1. The State of Jharkhand
2. Ishrat Parween, Wife of Syed Zeeshan Ahmed, R/o – Quarter No. DS/2/135 C, Railway Disel Colony, P.O. and p.S. Balidih, District – Bokaro, Jharkhand - 827010

… Opposite Parties

For the Petitioners : Mr. Awnish Kumar, Advocate
For the State : Mrs. Priya Shrestha, Spl.P.P.
For the OP No.2 : Mr. Baibhaw Gahlaut, Advocate
Mr. Subhneet Jha, Advocate

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:-

1. Heard the parties.

2. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 with the prayer to quash the entire criminal proceedings including the order taking cognizance dated 13.11.2024 passed by the learned Sub-Divisional Judicial Magistrate, Bokaro in

connection with Balidih P.S. Case No. 72 of 2023 corresponding to G.R. Case No. 967 of 2024 whereby and where under the learned Sub-Divisional Judicial Magistrate, Bokaro has taken cognizance of the offences punishable under Sections 341, 323, 354, 498A, 504, 506/34 of the Indian Penal Code and Sections 3 & 4 of the Dowry Prohibition Act on the basis of the charge sheet submitted by the police after completion of investigation of the case and also ordered for issuance of summons *inter alia* against the petitioners.

3. At the outset, the learned counsel for the petitioners submits that the case is next fixed to 23.11.2026 for appearance of the accused persons of the case.

4. The allegation against the petitioners is that the petitioner No.2 being the *Nanad* (sister-in-law of the informant) and the petitioner No.1 being the husband of the petitioner No.2 i.e. *Nandoshi* (brother-in-law of the informant) *inter alia* in furtherance of common intention with the co-accused persons, treated the informant with cruelty in connection of demand of dowry of Rs.15,00,000/- to be brought by the informant from her widow mother; who survives on pension she gets and they caused hurt to the informant, wrongfully restrained her and intentionally insulted her to provoke her to commit breach of peace or to commit any other offence and also criminally intimidated her. There is further allegation of demand of dowry. There is specific allegation against the petitioners of demanding Rs.15,00,000/- and assaulting the informant by way of harassment with a view to coerce her and her

mother to meet the unlawful demand of Rs.15,00,000/- and the conduct of the petitioners was of such nature as was likely to drive the informant to commit suicide but on seeing the face of her son, the informant did not commit suicide.

5. On the basis of the Complaint Case No. 1239 of 2022 being referred to police under Section 156(3) of the Code of Criminal Procedure, police registered Balidih P.S. Case No. 72 of 2023 and took up investigation of the case and after completion of the investigation, submitted charge sheet after finding the allegations to be true. On the basis of the same, the learned Sub-Divisional Judicial Magistrate, Bokaro has taken cognizance of the said offences as already indicated above.

6. Learned counsel for the petitioners relies upon the judgment of the Hon'ble Supreme Court of India in the case of **Kahkashan Kausar @ Sonam & Others vs. State of Bihar & Others** reported in **(2022) 6 SCC 599** and submits that therein in the facts of that case, where there was a second F.I.R. and the allegations made in the complaint that all the accused persons harassed the complainant mentally and threatened her of terminating her pregnancy, in the facts of that case, the Hon'ble Supreme Court of India quashed the First Information Report of that case. It is next submitted that in this case, since the allegations are general and omnibus in nature, hence, this is also a fit case where the prayer as prayed for in this Criminal Miscellaneous Petition be allowed. It is then submitted that the allegations against the petitioners

are false. It is further submitted that the petitioners are residing separately in the district of Muzaffarpur in the State of Bihar and un-necessarily, they have been dragged in this case only because they are the relatives of the husband of the informant. Hence, it is submitted that the prayer as prayed for in this Criminal Miscellaneous Petition be allowed.

7. 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 petitioners made in this Criminal Miscellaneous Petition and submit that the witnesses, whose statement appears in para-6, 7 & 8 of the case diary, have categorically and vividly described that the role played by each of the petitioners in demanding Rs.15,00,000/- as dowry to be brought by the informant from her widow mother and harassing the informant by causing hurt to her by assaulting her. It is next submitted that in view of the direct and specific allegations; which were found to be true during the investigation of the case and after such finding police having submitted charge sheet; the learned Sub-Divisional Judicial Magistrate, Bokaro has not committed any illegality in taking cognizance of the said offences. It is further submitted that the contention of the petitioners that they are staying in far-away places in the district of Muzaffarpur is out-and-out false and off and on, they were coming to the matrimonial house of the informant and at best, the same is a defence which the petitioners can take during the trial of the case but the same disputed questions of fact cannot be

adjudicated by this Court; in the absence of any evidence, in exercise of the power under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023. Hence, it is submitted that this Criminal Miscellaneous Petition, being without any merit, be dismissed.

8. 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 perusal of the record reveals that there is direct and specific allegation against the petitioners of demanding dowry of Rs.15,00,000/- to be brought by the informant from her widow mother and there is further allegation against the petitioners of harassing the informant by assaulting her by causing hurt to the informant, wrongfully restraining her and intentionally insulting her to provoke her to commit breach of peace or to commit any other offence and also criminally intimidating her and the said allegations were found to be true by the police during the investigation of the case. The contention of the petitioners is that they were staying far-away place in the district of Muzaffarpur in the State of Bihar, is a disputed question which can, at best, be a defence of the petitioners which they can take during the trial of the case but certainly the disputed fact of a defence plea, cannot be adjudicated by this Court in exercise of the power under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in conducting a mini trial as it is 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 Bharatiya Nagarik Suraksha Sanhita, 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 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)"*

9. In view of the discussions made above, this Court is of the considered view that this is not a fit case where the prayer of the petitioners made in this Criminal Miscellaneous Petition is to be acceded to in exercise of the power under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

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

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 29th of September, 2026
AFR/ Saroj

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