(2026:JHHC:33355)

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.1872 of 2026

Md. Majid Alam @ Majid Alam, aged about 41 years, S/o Md. Sayeed, Resident of Ward No.11, Nayadih Street, Near Fancy Tent House, Jalwabad, P.O., P.S. & District-Koderma, presently posted and working as Inspector, Jharkhand Home Guard Corps at Chatra, P.O. & P.S.-Chatra, District-Chatra.

… Petitioner

Versus

1. The State of Jharkhand

2. Sanjay Kumar, aged about 37 years, son of Jaleshwar Nath Singh, resident of Quarter No.-3542, Sector -XII-B, P.O. and P.S.-Sector XII, Bokaro Steel City, District-Bokaro, Jharkhand.

… Opposite Parties

For the Petitioner : Mr. Tasmiya Ali, Advocate
: Mr. Mohammad Asghar, Advocate
For the State : Mr. Pankaj Kumar, P.P.
For the O.P. No.2 : Mr. Rajesh Kumar, Advocate
: Ms. Tanu Kumari, Advocate

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

I.A. No.16217 of 2026

Heard the parties.

Learned counsel for the petitioner submits that this interlocutory application has been filed with the prayer for early hearing of the instant Cr.M.P.

Since, the hearing of instant Cr.M.P. is taken up today, hence, this interlocutory application stands disposed of being infructuous.

(Anil Kumar Choudhary, J.)

Cr.M.P. No.1872 of 2026

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 BNSS, 2023 with the prayer to quash and set aside the entire criminal proceeding arising out of Complaint Case No.1562 of 2024 including the order taking cognizance dated 12.12.2025 passed by learned Judicial Magistrate-1st Class, Bokaro whereby and where under the learned Judicial Magistrate-1st Class, Bokaro has found *prima facie* case for the offences punishable under Sections 323, 504 & 34 of the Indian Penal Code and also the order dated 10.09.2026 whereby and whereunder the learned Judicial Magistrate-1st Class, Bokaro explained the substance of accusation to the petitioner for having committed the offence punishable under Section 323, 504 & 34 of the Indian Penal Code.

3. Learned counsel for the petitioner submits that the allegation against the petitioner is that the petitioner in furtherance of common intention with the co-accused person caused hurt to the informant/complainant and intentionally insulted him to provoke him to commit breach of peace and other offences. It is next submitted that basing upon the complaint, statement on solemn affirmation and the statement of the enquiry witnesses, the learned Judicial Magistrate-1st Class, Bokaro has found *prima facie* case and issued summons to the petitioner consequent upon the petitioner appearing before the trial

Court, the substance of accusation has been explained. It is then submitted that the allegation against the petitioner is false and the case is next fixed for evidence but so far, no witness has been examined in this case. It is further submitted that the pre-cognizance notice as per first proviso of Section 223(1) of the BNSS, 2023 has been held to be sufficient consequent upon the notice issued to the petitioner having returned with the endorsement that the petitioner refused to accept the same, but such notice was not sent to the petitioner in his present and correct address. It is then submitted that the same amounts to non-compliance of the mandatory provision of law regarding such notice being a precondition for taking cognizance. It is next submitted that the occurrence took place while the petitioner was discharging his official duty without sanction for prosecution under Section 197 of Cr.P.C. which corresponds to Section 218 of the BNSS, 2023 and without the sanction for prosecution, the cognizance of the offence ought not have been taken against the petitioner. It is then submitted that the petitioner has been exonerated in the inquiry conducted by the District Commandant, Jharkhand Home Guard Corps, Bokaro. It is lastly submitted that the prayer, as prayed for in the instant Cr.M.P, be allowed.

4. Learned 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 petitioner made in the instant Cr.M.P and submit that the petitioner is not an officer removable from his office save by or with sanction of the Government, hence, the protection under Section 197 of Cr.P.C./218 of the

BNSS, 2023 is not applicable to the petitioner. It is next submitted that the only contention of the petitioner is that the allegation against the petitioner is false and the same is at best a defence of the petitioner, hence, it is submitted that the materials on record constitute the offences punishable under Section 323, 504 & 34 of the Indian Penal Code. Therefore, it is submitted that this Cr.M.P., being without any merit, be dismissed.

5. 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 that the defence of the accused person of the case and the veracity of the evidence put forth by the accused person, cannot be considered by the High Court, in exercise of jurisdiction under Section 482 Cr.P.C. which corresponds to Section 528 of the BNSS, 2023, 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 & Ors.** reported in (**2004) 2 Supreme 501**.

6. It is also a settled principle of law as has been held by the Hon'ble Supreme Court of India in the case of **State of Uttar Pradesh & Anr. vs. Akhil Sharda & Ors.** reported in **2022 LiveLaw SC 594** that no mini trial can be conducted by the high court in exercise of power under Section 482 Cr.P.C which corresponds to Section 528 of the BNSS, 2023, 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)*

7. Now coming to the facts of the case, the only contention of the petitioner is that the allegation against the petitioner is false. Certainly, the same is at best a defence which the petitioner; which the petitioner can take during the trial of the case, but the same cannot be a ground to quash the entire criminal proceeding. The direct and specific allegation against the petitioner is that the petitioner in furtherance of common intention with the co-accused person has voluntarily caused hurt by causing bodily pain to the informant/complainant and there is also allegation against the petitioner and intentionally insulting the informant/complainant to provoke him to commit breach of piece or any other offences, hence, under such circumstances, this Court is of the considered view that the materials in the record is *prima facie* constitute the offences punishable under Section 323, 504 & 34 of the Indian Penal Code, therefore, this is not a fit case where the prayer as prayed for by the petitioner in this Cr.M.P. is to be acceded to in exercise of the power under Section 528 of the BNSS, 2023.

8. Accordingly, this Cr.M.P., being without any merit, is dismissed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 23rd of November, 2026
AFR/ Abhiraj

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