IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.2319 of 2024

Samrat Chatterjee, Age – 29 years, S/o – Samir Kumar Chatterjee, R/o – Flat No. 301 Dreamz Apartment, Lower Vidyapati Nagar, P.O. – Ranchi University, P.S. – Gonda, Dist- Ranchi, Jharkhand. … Petitioner

Versus

1. The State of Jharkhand
2. Rajiv Kumar, S/o Prahlad Prasad, Age about – 42 years, R/o – Kanke Road, Lower Shivpuri Kailash Bhawan, P.S. Sukhdeo Nagar, Distt. – Ranchi, Jharkhand.

… Opposite Parties

For the Petitioner : Mr. Rahul Pandey, Advocate
For the State : Mr. Manoj Kr. Mishra, Addl.P.P.
For the O.P. No.2 : None

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:-

I.A. No. 11058 of 2026

1. Heard the parties.
2. Learned counsel for the petitioner seeks permission of this Court to withdraw this interlocutory application.
3. Permission is accorded.
4. Accordingly, this interlocutory application is dismissed as withdrawn.

(Anil Kumar Choudhary, J.)

Cr.M.P. No.2319 of 2024

1. Heard the parties.
2. Though the opposite party No.2 has put in his appearance through Advocate 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 the Bharatiya Nagarik Suraksha Sanhita, 2023 with the prayer to quash the entire criminal proceedings including the order dated 16.08.2023 in connection with Gonda P.S. Case No. 34 of 2023 corresponding to G.R. Case No. 2219 of 2023 whereby and where under the learned Judicial Magistrate-1st Class-XXI, Ranchi has taken cognizance of the offences punishable under Sections 341, 323, 504 of the Indian Penal Code.
4. At the outset, the learned counsel for the petitioner submits that the case is next fixed to 27th November, 2026 for evidence and one witness has been examined in this case but the petitioner has not filed the deposition of the witness.
5. Learned counsel for the petitioner submits that since the allegations made against the petitioner are false, hence, the prayer as prayed for in this Criminal Miscellaneous Petition be allowed.
6. Learned Addl.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 the

allegations made against the petitioner are sufficient to constitute each of the offences, which the police found to be true after the investigation of the case and the Magistrate at the time of taking cognizance cannot add or subtract any offence in respect of which charge sheet has been submitted by the police in a police case. Hence, it is submitted that this Criminal Miscellaneous Petition, being without any merit, be dismissed.

7. Having heard the rival submissions made the Bar and after carefully going through the materials available in the record, it is pertinent to mention here that there is direct and specific allegation against the petitioner of causing hurt to the informant by assaulting him and throttling his neck causing pain in his neck and wrongfully restraining him as well as intentionally insulting him with intention to provoke him to commit breach of peace or any other offence.

8. Police after investigation of the case found the allegations to be true and basing upon the same, charge sheet was submitted by the police and basing upon which, the learned Judicial Magistrate-1st Class-XXI, Ranchi has taken cognizance of the said offences.

9. It is a settled principle of law 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, 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."*

10. After going through the materials available in the record, this Court finds that there is sufficient material available in the

record to constitute the offences punishable under Sections 341, 323, 504 of the Indian Penal Code even if the entire allegations made against the petitioners are considered to be true in their entirety.

11. Under such circumstances, this Court is of the considered view that there is no justifiable reason to accede to the prayer of the petitioner made in this Criminal Miscellaneous Petition in exercise of the power under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 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 September, 2026
AFR/ Saroj

Uploaded on 28/09/2026