IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.2229 of 2025

Kishan Kumar Kunjlal, aged about 53 years, son of Hargovind Singh resident of Shree Krishna Nagar Colony, P.O. Ratu Road, P.S. Sukhdeonagar, District- Ranchi.

… Petitioner

Versus

1. The State of Jharkhand
2. Maruf Ansari, son of Md. Samad Ansari, resident of Gudri Bazar, P.O.- Gaya Road, P.S.- Sadar, District – Chatra, State- Jharkhand.

… Opposite Parties

For the Petitioner : Mr. Devesh Ajmani, Advocate
For the State : Mrs. Nehala Sharmin, Spl.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.3553 of 2026**

1. Heard the parties.

2. Learned counsel for the petitioner submits that this interlocutory application has been filed with the prayer to amend the instant Criminal Miscellaneous Petition by substituting the order dated 12.04.2018 as mentioned in the prayer (ii.) of para-1 and the prayer portion of the instant Criminal Miscellaneous Petition; as the order dated 15.04.2019. It is next submitted that the printing error regarding the date of the order was committed because of inadvertence. It is further submitted that unless the said prayer as proposed in this interlocutory application is allowed, the petitioner will be highly

prejudiced. Hence, it is submitted that the prayer as prayed for in this interlocutory application be allowed.

3. Considering the aforesaid fact, the prayer of the petitioner to carry out the amendment as proposed in this interlocutory application is allowed.

4. The petitioner is directed to file a consolidated Criminal Miscellaneous Petition incorporating the amendment as proposed in this interlocutory application allowed today.

5. Learned counsel for the petitioner files the consolidated Criminal Miscellaneous Petition in the court today.

6. Keep the same in the record

7. This interlocutory application is disposed of accordingly.

(Anil Kumar Choudhary, J.)

Cr.M.P. No. 2229 of 2025

1. Heard the parties.

2. Though the 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 the B.N.S.S., 2023 with twin prayer i.e. to quash the order dated 12.04.2018 and also the order dated 15.04.2019; both passed by the learned Chief Judicial Magistrate, Chatra in connection with Complaint Case No. 139 of 2014.

4. At the outset, the learned counsel for the petitioner submits that the petitioner does not press the prayer to quash the order dated

12.04.2018 passed by the learned Chief Judicial Magistrate, Chatra in connection with Complaint Case No. 139 of 2014.

5. Accordingly, the order dated 12.04.2018 passed by the learned Chief Judicial Magistrate, Chatra in the said case is rejected as not pressed.

6. So far as the prayer to quash the order dated 15.04.2019 passed by the learned Chief Judicial Magistrate, Chatra in the said case is concerned, the learned counsel for the petitioner submits that the proclamation issued under Section 82 of the Code of Criminal Procedure vide order dated 14.07.2017 issued by the learned Chief Judicial Magistrate, Chatra, having been quashed by a Co-ordinate Bench of this Court vide order dated 23.02.2018 passed in Cr.M.P. No. 652 of 2018 and thereafter, no fresh order for issuance of the process under Section 82 of the Code of Criminal Procedure was passed in connection with that case. It is next submitted that in the absence of the same, issuing of the attachment order of the property of the petitioner vide order dated 15.04.2019 is not sustainable in law. Hence, it is submitted that the same be quashed and set aside.

7. 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.

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 attachment order of the property under Section 83 of the Code of Criminal Procedure can be issued while issuing the proclamation under Section 82 of the Code of Criminal

Procedure simultaneously under the circumstances mentioned therein or subsequent to issuance of the process under Section 82 of the Code of Criminal Procedure in appropriate case but for issuing the attachment order of the property of the person absconding, the issuance of the proclamation under Section 82 of the Code of Criminal Procedure is a *sine qua non*.

9. Now coming to the facts of the case, the undisputed fact remains that as on 15.04.2019, there was no valid proclamation under Section 82 of the Code of Criminal Procedure existing. Under such circumstances, this Court is of the considered view that still the learned Chief Judicial Magistrate, Chatra having issued the attachment order of the property of the petitioner purportedly in exercise of the power under Section 83 the Code of Criminal Procedure by the said impugned order dated 15.04.2019; the same is not sustainable in law. Hence, the same is liable to be quashed and set aside against the petitioner named above.

10. Accordingly, the order dated 15.04.2019 passed by the learned Chief Judicial Magistrate, Chatra in connection with Complaint Case No. 139 of 2014, is quashed and set aside against the petitioner named above.

11. 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 01st of May, 2026
AFR/ Saroj

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