**IN THE HIGH COURT OF JHARKHAND AT RANCHI**
**Cr.M.P. No.3425 of 2025**
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Abhishek Kumar Singh, aged about 24 years, S/o Binod Kumar Singh, R/o Qtr. No.MK1-131, Monohartand, P.O. & P.S.-Sindri, District-Dhanbad, Jharkhand.

… Petitioner

***Versus***

The State of Jharkhand … Opposite Party

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For the Petitioner : Mr. Raj Nandan Chatterjee, Advocate
: Mr. S.K. Singh, Advocate
: Mr. V.K. Tiwari, Advocate
For the State : Mrs. Shweta Singh, Addl.P.P.

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**P R E S E N T**

**HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY**

**I.A. No.12309 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.3425 of 2025**

***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 FIR including the entire criminal

proceeding in connection with Sindri P.S. Case No.92 of 2024 corresponding to G.R. Case No.1206 of 2025 and to quash the charge sheet as well as the order dated 13.05.2025 passed by learned Judicial Magistrate-1st Class, Dhanbad whereby and where under the learned Judicial Magistrate-1st Class, Dhanbad has taken cognizance of the offences punishable under Sections 376, 504 & 506 of the Indian Penal Code and Section 3/4 of Dowry Prohibition Act against the petitioner.

3. The allegation against the petitioner is that the petitioner obtained the consent of the informant by adopting fraudulent means by making a false promise of marriage to her and sexually exploited her and made a dowry demand of Rs.10 lakhs as a condition for marrying her. The mother of the informant gave by sending Rs.1 lakh through bank account transfer to the account of the petitioner and separately Rs.75,000/- was also given to the petitioner by the mother of the informant besides Rs.21,000/- for gold chain, but because of non-fulfillment of dowry demand of Rs.10 lakhs, the petitioner did not marry the informant.

4. On the basis of the written report submitted by the informant, police registered Sindri P.S. Case No.92 of 2024 and took up investigation of the case and after completion of investigation, police found the allegation against the petitioner to be true and submitted charge sheet against the petitioner and basing upon the same, the learned Judicial Magistrate-1st Class, Dhanbad has taken cognizance of the offences as already indicated above.

5. Learned counsel for the petitioner relies upon the judgment of this Court in the case of **Deepak Toppo vs. The State of Jharkhand &**

**Another** passed in **Cr.M.P. No.2240 of 2021 dated 19.06.2024**, wherein in para-09, in the facts of that case, as undisputedly, the age of the informant of that case was 25 years on the date of alleged physical relationship. It was considered in the facts of that case where there was allegation that on two different dates, the accused of that case established physical relationship with victim, but there was no averment in the FIR that either of the two physical relationships on two separate dates were made forcibly or with promise to marry the victim, this Court quashed the entire criminal proceeding.

6. Learned counsel for the petitioner next relies upon the judgment of this Court in the case of **Matiyas Sanga vs. The State of Jharkhand** reported in **2025:JHHC:26802** and submits that in that case, this Court relied upon the judgment of the Hon'ble Supreme Court of India in the case of **Sonu @ Subash Kumar vs. State of Uttar Pradesh & Another** reported in **(2021) 18 SCC 517**, wherein the Hon'ble Supreme Court of India keeping in view the facts of the case where the relationship between the accused and the victim was consensual in nature, the parties were in relationship for a period of one and a half years and subsequently the accused persons expressed disinclination to marry the victim, the Hon'ble Supreme Court of India quashed the entire criminal proceeding.

7. It is then submitted that in that case, this Court also considered the judgment of Hon'ble Supreme Court of India in the case of **Maheshwar Tigga vs. The State of Jharkhand** reported in **(2020) 10 SCC 108**, wherein it was held by the Hon'ble Supreme Court of India in the facts of that case that misconception of fact has to be in proximity of time to the occurrence

and cannot be spread over a period of four years. It is submitted that as in this case the physical relationship continued for a considerable period of time, so it cannot be said that this is a case of misconception of facts, hence, it is lastly submitted that the prayer as prayed for by the petitioner in this Cr.M.P., be allowed.

8. Learned Addl.P.P. appearing for the State on the other hand vehemently opposes the prayer of the petitioner made in the instant Cr.M.P and submits that the undisputed facts remains that the offence punishable under Section 3 of the Dowry Prohibition Act is made out if the allegation made against the petitioner are considered to be true, as there is direct and specific allegation against the petitioner that the petitioner demanded Rs.10 lakhs as a condition for marriage with the victim. It is next submitted that if the allegations made against the petitioner are considered to be true, this is also a case where the petitioner obtained the consent of the victim of sexual relationship, on making a false promise of marriage; as since the beginning, the petitioner was not having any intention to marry the victim and in order to wriggle out of the relationship between him and the victim has used the ploy of an exorbitant dowry demand of Rs.10 lakhs, hence, it is submitted that the offence punishable under Section 376 of the Indian Penal Code is also made out. It is then submitted that though charge sheet has been submitted against the petitioner and the petitioner is absconding and the petitioner himself has submitted in court that the case is next fixed on 20.11.2026 for appearance of the sole accused person of the case.

Therefore, it is submitted that this Cr.M.P., being without any merit, be dismissed.

9. 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 even if the entire allegations against the petitioner are considered to be true in their entirety, no doubt, the offence punishable under Section 3 of the Dowry Prohibition Act is made out as there is direct and specific allegation against the petitioner of demanding dowry of Rs.10 lakhs. Further, there is allegation against the petitioner that the petitioner obtained the consent of the victim for sexual relationship on the false promise of marriage and charge sheet has already been submitted against the petitioner after finding the allegations against him to be true and the learned Magistrate has taken cognizance of the offences based on the charge sheet submitted by the police.

10. 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**, paragraph-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 for the trial court only at the time of framing of charge. In this case, so far the Court could not consider the charge as the petitioner is avoiding appearance in the court concerned and is absconding.

11. Under such circumstances, this Court is of the considered view that this is not a fit case where the entire criminal proceeding be quashed at this nascent stage.

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

**(Anil Kumar Choudhary, J.)**

High Court of Jharkhand, Ranchi
Dated the 01st of September, 2026
AFR/ Abhiraj

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