

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 71 of 2023

1. Arindam Bhattacharya, aged about 35 yrs., s/o Ashok Kumar Bhattacharya, r/o Arunoday High School, Domani Railway Colony, P.O., P.S. & Dist.-Asansol (West Bengal)
2. Ashok Kumar Bhattacharya, aged about 74 yrs., s/o late Aparna Bhattacharya, r/o Paramhans dev Road, P.O. & P.S.-Nawagram (Konagarh), Dist.-Hugli (West Bengal)
3. Gouri Bhattacharjee, aged about 64 yrs., w/o Ashok Kumar Bhattacharya, r/o Paramhansdev Road, P.O. & P.S.-Nawagram (Konagarh), Dist.-Hugli (W. Bengal)

.... Petitioner

Versus

1. The State of Jharkhand
2. Smriti Kona Bhattacharya, w/o Arindam Bhattacharya, r/o Jamtara Road, Sindri Colony, P.O. & P.S.-Nirsa, Dist.-Dhanbad

.... Opp. Parties

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

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For the Petitioners	: Mr. Shailesh Kr. Singh, Advocate
	: Mr. Abhijeet Kr. Singh, Advocate
For the State	: Mr. V.K. Vashistha, Spl. P.P.
For O.P. No.2	: Mr. Prabhas C. Jha, Advocate

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By the Court:-

1. Heard the parties.
2. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 482 of Cr.P.C. with the prayer to quash the entire criminal proceeding arising out of C.P. Case No. 3200 of 2017 as well as the order dated 03.01.2018 passed

by the learned Judicial Magistrate 1st Class, Dhanbad whereby and where under, the learned Judicial Magistrate 1st Class, Dhanbad has found sufficient material in the case to proceed against the petitioners for having committed the offences punishable under Section 498A of the Indian Penal Code.

3. The petitioners are respectively the husband, father-in-law and mother-in-law of the complainant.
4. The allegation against the petitioners is that consequent upon the marriage of the petitioner no.1 with the complainant as per Hindu rites and customs on 19.04.2016, the petitioners treated the complainant-opposite party no.2 with cruelty by harassing her both physically and mentally in connection of additional demand of dowry of Rs.5,00,000/- and a four-wheeler vehicle. The father of the complainant being a retired person, was unable to meet the aforesaid demand, as the father of the complainant spent all the money, which he received at the time of retirement, at the time of the marriage of the complainant. Because of the failure to meet the said demand, the petitioners assaulted the complainant, drove her out from her matrimonial house after taking away all her jewelries and other valuables including clothes in the night of 02.02.2017 and when the father of the complainant tried to pacify the petitioners they even went to the extent of assaulting the father of the complainant also.
5. The learned Judicial Magistrate 1st Class, Dhanbad on the basis of the complaint, statement of the complainant on solemn

affirmation and on the statement of inquiry witnesses found sufficient material to proceed against the petitioners for having committed the offence punishable under Section 498A of the Indian Penal Code.

6. It is submitted by the learned counsel for the petitioners that that the complainant also filed Original Maintenance Case No. 404 of 2018 before the Family Court, Dhanbad and a compromise has been entered into regarding maintenance of Rs.10,000/- per month to be paid by the petitioner no.1 to the opposite party no.2. It is next submitted by the learned counsel for the petitioners that the allegations against the petitioners are all false and inspite of accepting the regular maintenance amount of Rs.10,000/- per month, the complainant is continuing with this case. 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 opposes the prayer and submits that the petitioners are inhuman kind of persons as even after the birth of a baby girl of the petitioner no.1 and the complainant, they setup the condition of fulfillment of their demand of Rs.5,00,000/- in cash and four wheeler vehicle, to take back the complainant to her matrimonial house and cursed the complainant for giving birth to the baby girl. It is next submitted by the learned Spl. P.P. and the learned counsel for the opposite party no.2 that payment of maintenance amount by the petitioner

no.1 will not condone the offence committed by him in treating the complainant with cruelty in connection with demand of dowry. Hence, it is submitted that this criminal miscellaneous petition being without any merit be dismissed.

8. Having heard the submissions made at the Bar and after going through the materials in the record, it is pertinent to mention here that the materials in the record goes to show that the petitioners treated the complainant with cruelty in connection with demand of dowry of Rs.5,00,000/- and a four wheeler vehicle by assaulting her, driving her out from her house when she was pregnant and not taking her back to her matrimonial house and cursing her to give birth to a baby girl and imposing the condition precedent of fulfillment of their dowry demand for taking the informant back to her matrimonial house, which if treated to be true in their entirety, is sufficient to constitute the offence punishable under Section 498A of Indian Penal Code and under Section 4 of Dowry Prohibition Act also.

9. The contention of the petitioners that they are innocent and the complainant is an evil lady is at best a defence, which can be raised by the petitioners before the trial court at appropriate stage but the same cannot be considered by this Court in exercise of the power under Section 482 Cr.P.C.; as it is a settled principle of law that a defence of the accused person and the veracity of the evidence put forth by the accused, cannot be considered in exercise of its jurisdiction under Section 482 Cr.P.C. by the High

Court, as that would be 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.**

10. It is also a settled principle of law that the genuine prosecution cannot be stifled with in exercise of power under Section 482 Cr.P.C. as has been held in the case of **Monica Kumar (Dr.) and Another vs. State of Uttar Pradesh** and others reported in **(2008) 8 SCC 781.**
11. It is also a settled principle of law that the defence of the accused person cannot be considered before the prosecution adduces evidence as has been held by the Hon'ble Supreme Court of India, in the case of **Harjinder Singh v. State of Punjab and Another** reported in **2025 SCC OnLine SC 1029**, paragraph no.11 of which reads as under :-

"11. The primary argument of Respondent no. 2 rests on his alibi. An alibi, however, is a plea in the nature of a defence; the burden to establish it rests squarely on the accused. Here, the documents relied upon, parking chit, chemist's receipt, OPD card, CCTV clip, have yet to be formally proved. Until that exercise is undertaken, they remain untested pieces of paper. To treat them as conclusive at the threshold would invert the established order of criminal proceedings, requiring the Court to pronounce upon a defence before the prosecution is allowed to lead its full evidence. Even assuming the documents will eventually be proved, their face value does not eclipse the prosecution version. The parking slip is timed at 06:30 a.m.; the chemist's bill and CCTV images are from 12:09 p.m. The confrontation is alleged at 08:30 a.m. A road journey from Jagowal to Chandigarh of roughly ninety kilometres in a private vehicle can comfortably be accomplished within the intervening window. More importantly, abetment to suicide is not an offence committed at a single moment. It may consist of a build-up of psychological pressure

culminating in self-destruction, and the law punishes that build-up wherever and whenever it occurs."

12. In view of the discussions made above, this Court is of the considered view that there is no justifiable reason to accede to the prayer of the petitioners made in this criminal miscellaneous petition in exercise of the power under Section 482 of Cr.P.C.
13. Accordingly, this criminal miscellaneous petition being without any merit is dismissed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 18th September, 2025
AFR/Sonu-Gunjan/-