

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.184 of 2024

1. Neha Devi @ Neha @ Sneha Devi @ Sneha Kumari, aged about 35 years, D/o Suresh Prasad Sah
2. Usha Devi aged about 59 years, W/o Suresh Prasad Sah
3. Suresh Prasad Sah aged about 65 years, S/o Late Jagdish Prasad Sah.

All resident of N.F.4, Near 687 Pit Colliery, Jamadoba, P.O.-
Bhaga, P.S.-Jorapokhar, District-Dhanbad.

... Petitioners

Versus

1. The State of Jharkhand, and
2. Soumya Sah @ Soumya Gupta w/o Rupesh Prasad Sah, Resident of H.No.93, Road No.4, New Rani Kudar, Kadma, P.O. & P.S. Kadma, Town-Jamshedpur, District-East Singhbhum.

... Opposite Parties

For the Petitioners : Mr. Suresh Kumar, Advocate
For the State : Mr. P.D. Agrawal, Spl.P.P.
For the O.P. No.2 : Mr. Abhishek Singh, Advocate

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- Heard the parties.

2. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure with a prayer to quash and set aside the order dated 24.06.2019 passed by learned Sub-Divisional Judicial Magistrate, Jamshedpur in Complaint Case No.3237 of 2018 registered for the offences punishable under Section 498A of the Indian Penal Code, Section 4 of Dowry Prohibition Act and Section 3/4 of

Prevention of Witch (Daain) Practices Act as well as the entire criminal proceeding against the petitioners.

3. The brief fact of the case is that petitioner no.1 being the Nanad, petitioner no.2 being the mother-in-law and petitioner no.3 being the father-in-law of the complainant/opposite party no.2 committed cruelty with the complainant/opposite party no.2 by harassing her to meet the dowry demand of Rs.15 lakhs. The only allegation against the petitioners is that the petitioner no.1 and 2 instigated the husband of the complainant to assault her mercilessly by fist and blows causing grievous injury. There is specific allegation against the petitioner no.1 and 2 that on 03.12.2017, they tried to burn the complainant alive by opening the knob of the cooking gas in the kitchen but as the complainant could smell the foul play and left the kitchen so she could save herself. The petitioner no.2 used to call the complainant a Dain. The petitioners are adamant to get the second marriage of the husband of the complainant solemnized; because of the nonfulfillment of their dowry demand. There is specific allegation that on 08.08.2018, the petitioners mercilessly beat the complainant and threw her out from her matrimonial house, with her daughter, for not fulfilling the said dowry demand. The entire belongings of the complainant such as jewellerys and clothes were kept by the petitioner no.1 and 2. On 30.09.2018, the petitioner no.1 and 2 did not open the door of their house even after repeatedly ringing the door bell by the complainant. The complainant with her child and other relatives went to her matrimonial house but the petitioners did not allow the complainant to enter into her matrimonial house. There is also specific allegation that on 05.11.2018, the petitioner no.2 and 3 came to Jamshedpur, but after reaching the Jamshedpur, where the

parents of the complainant residing, they made the dowry demand of Rs.10 lakhs and made the said demand of Rs.10 lakhs as a condition precedent for allowing the complainant to stay in her matrimonial house and when the parents of the complainant expressed their inability to fulfil the illegal demand of dowry, the petitioner no.2 and 3 abused them by using abusive words and called the complainant a Daain before her parents.

4. On the basis of the complaint, statement on solemn affirmation and the statement of enquiry witnesses, the learned Sub-Divisional Judicial Magistrate, Jamshedpur has found *prima facie* case for the offences punishable under Section 498A of the Indian Penal Code, Section 4 of Dowry Prohibition Act and Section 3/4 of Prevention of Witch (Daain) Practices Act.

5. Learned counsel for the petitioners submits that the allegations against the petitioners are all false, fabricated, concocted and far from the truth. The complainant has instituted this false complaint case to lead a free life with her friends and colleagues as per her sweet will, without any check by anybody. It is next submitted that the statements made are self-contradictory and the demand of dowry made in para-4 is Rs.15 lakhs while in para-9 is Rs.10 lakhs, hence, it is submitted that the prayer, as prayed for in the instant Cr.M.P, be allowed.

6. Learned Spl.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 so far as the contention of the petitioners that the different amounts of dowry demand was made as mentioned in para-4 and para-9 of the complaint are concerned, these are two different occasions when the demand of dowry was made. The demand of

dowry of Rs.15 lakhs was made after couple of months of the marriage of the complainant which took place on 30.11.2014 and the demand of dowry of Rs.10 lakhs was made on 05.11.2018 and the same only shows the truth of the complaint. As on two different occasions, two different amounts of demand of dowry was made; so there was nothing wrong in mentioning two different amounts on two different occasions. It is next submitted that the only contention of the petitioners is that, the allegations against them are not true, which can only be tested by a full dress trial of the case and this Court in exercise of its power under Section 482 of the Cr.P.C. cannot decided the veracity of the defence, in the absence of any evidence, hence, it is submitted that this Cr.M.P., being without any merit, be dismissed.

7. 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 persons and the veracity of the evidence put forth by the accused cannot be considered in exercise of the jurisdiction under Section 482 of Cr.P.C. by the High Court 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 and Others** reported in 2004 (2) Supreme 501.

8. It is also a settled principle of law that in exercise of power under Section 482 of Cr.P.C., the genuine prosecution cannot be stifled with as has been held by the Hon'ble Supreme Court of India in the case of **Monica Kumar (Dr.) and Another vs. State of Uttar Pradesh and others** reported in (2008) 8 SCC 781.

9. 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

reiterated the settled principle of law that no mini trial can be conducted by the high court in exercise of power under Section 482 Cr.P.C, 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)

10. Now, coming to the facts of the case, the undisputed facts remains that if the allegations made in the complaint, statement on solemn affirmation and the statement of enquiry witnesses are considered to be true in their entirety, the offences for which the learned Sub-Divisional Judicial Magistrate, Jamshedpur found *prima facie* case is made out against the petitioners, but the only contention of the petitioners is that the allegation against the petitioners are all false, fabricated, concocted and far from the truth, hence, the order dated 24.06.2019 passed by learned Sub-Divisional Judicial Magistrate, Jamshedpur in Complaint Case No.3237 of 2018 by which the learned Sub-Divisional Judicial Magistrate, Jamshedpur found *prima facie* case for the offences punishable under Section 498A of the Indian Penal Code, Section 4 of Dowry Prohibition Act and Section 3/4 of Prevention of Witch (Daain) Practices Act as well as the entire criminal proceeding against the petitioners, be quashed and set aside.

11. As has already been indicated above, the veracity of the defence cannot be tested in a proceeding under Section 482 of Cr.P.C., therefore, this Court is

of the considered view that as considering the allegations made against the petitioners are true, the offences in respect of which the learned Sub-Divisional Judicial Magistrate, Jamshedpur has found *prima facie* case is in fact made out, hence, this Court is of the considered view that this is not a fit case where the prayer as prayed for by the petitioner, in this Cr.M.P, be allowed in exercise of the power under Section 482 of the Cr.P.C.

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

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 09th of July, 2025
AFR/ Abhiraj