



IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.166 of 2022

1. Bishnu Kumar Tiwari @ Bishnu Tiwari, son of Late Mukhram Tiwari, aged about 68 years, residents of 6, Uma Das Lane, Dharmatala, Circus Avenue, Police Station - New Market, Kolkata- 700013; permanent residents of Village- Ornar, Post Office- Harinamad, Police Station - Chainpur, District - Palamau - 822110;

U.I.D. No.: 6304 6573 4820

2. Baban Tiwari, aged about 66 years; U.I.D. No.: 8936 4615 1214
 3. Binod Tiwari, aged about 60 years; U.I.D. No. 4925 5727 8097
- Both sons of Late Mukhram Tiwari, permanent resident of Village - Ornar, Post Office - Harinamad, Police Station - Chainpur, District- Palamau - 822110

... Petitioners

Versus

1. The State of Jharkhand
2. Shila Devi, wife of Sri Bishnu Tiwari, residents of Village- Ornar, Post Office - Harinamad, Police Station - Chainpur, District- Palamau - 822110

... Opposite Parties

For the Petitioner : Mr. Prabhash Kumar, Advocate
 Mr. D.N. Tiwari, Advocate
 For the State : Mrs. Priya Shrestha, Spl.P.P.
 For the O.P. No.2 : Mr. Rajeev Kumar, 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 the prayer to quash the entire criminal proceeding in connection with Complaint Case No.1245 of 2014 including the order dated 06.10.2015 whereby and where under the learned Sub-Divisional Judicial Magistrate, Daltonganj has found *prima facie* case for the offence punishable under Section 498A and 323 of the Indian Penal Code.

3. The allegation against the petitioners is that the petitioner No.1, aged about 68 years at the time of filing of this Criminal Miscellaneous Petition, being the husband of the complainant and the petitioner No.2 and 3, who are the brothers of the petitioner No.1, treated the complainant with cruelty by once assaulting her. The marriage between the petitioner No.1 and the complainant-opposite party No.2 admittedly took place in the year 1979 and admittedly as stated by the complainant in her statement on solemn affirmation in answer to the question of the court, that she does not have any relation with the petitioner No.1 for last 20 years prior to recording her statement on solemn affirmation.

4. Learned counsel for the petitioners submits that the allegations against the petitioners are false. It is next submitted that so far, no witness has been examined in this case during the trial of the case. Admittedly, the petitioner No.1 is staying at Kolkata and running a garment shop, whereas the complainant-opposite party No.2 is staying in the District of Palamau in the State of Jharkhand with her two daughters and the children of her uncle-in-law, in the old house of her father-in-law. It is then submitted that the allegations against the petitioners are general and omnibus in nature and in view of the admitted cessation of relationship between the complainant-opposite party No.2 and the petitioner No.1 for over 20 years, this complaint has been filed



only for wrecking vengeance because of ill-will. Hence, it is submitted that the prayer as prayed for in this Criminal Miscellaneous Petition be allowed.

5. Learned Special Public Prosecutor appearing for the State and the learned counsel for the opposite party No.2 on the other hand vehemently oppose the prayer of the petitioners made in this Criminal Miscellaneous Petition and submit that the allegations in the complaint, the statement of the complainant on the solemn affirmation and the statement of the inquiry witnesses are sufficient to constitute the offences punishable under Sections 498A and 323 of the Indian Penal Code. Hence, it is submitted that this Criminal Miscellaneous Petition, being without any merit, be dismissed.

6. 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 the Hon'ble Supreme Court of India in the case of **Kahkashan Kausar @ Sonam & Others v. State of Bihar & Others** reported in (2022) 6 SCC 599 has held that where the allegations made against the accused persons of the case are general and omnibus in nature, such accused persons do not warrant prosecution; by observing thus in paragraph-18, which reads as under:-

"18. Coming to the facts of this case, upon a perusal of the contents of the FIR dated 1-4-2019, it is revealed that general allegations are levelled against the appellants. The complainant alleged that "all accused harassed her mentally and threatened her of terminating her pregnancy". Furthermore, no specific and distinct allegations have been made against either of the appellants herein i.e. none of the appellants have been attributed any specific role in furtherance of the general allegations made against them. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are, therefore, general and omnibus and can at best be said to have been made out on account of small skirmishes. Insofar as husband is concerned, since he has not appealed against the order of the High Court, we have not examined the veracity of allegations made against him. However, as far as the appellants are concerned, the allegations made against them being general and



omnibus, do not warrant prosecution." (Emphasis supplied)

7. Now coming to the facts of the case, there is absolutely no specific allegation against the petitioner No.1 of having committed any particular act on any particular occasion. Admittedly, the petitioner No.1 and the complainant-opposite party No.2 do not have any relationship in any manner, at least about 20 years before filing of the complaint. There is absolutely no specific allegation against the petitioner No.2 and 3 also.

8. Under such circumstances, this Court is of the considered view that even if the entire allegations made against the petitioners are considered to be true in their entirety, still the offence punishable under Sections 498A and 323 of the Indian Penal Code is not made out, as there is no allegation of any hurt being caused to the complainant-opposite party No.2 and only there is a vague word of 'mar-pit' being done by the petitioners, without any specific details as to the manner, time and place thereof. Admittedly, the complainant-opposite party No.2 is residing in the paternal house of the petitioners. Under such circumstances, this Court is of the considered view that the continuation of the order dated 06.10.2015 passed by the learned Sub-Divisional Judicial Magistrate, Daltonganj in connection with Complaint Case No.1245 of 2014 will amount to abuse of process of law. Therefore, this is a fit case where the entire criminal proceeding including the order dated 06.10.2015 passed by the learned Sub-Divisional Judicial Magistrate, Daltonganj in connection with Complaint Case No.1245 of 2014 be quashed and set aside against the petitioners.

9. Accordingly, the entire criminal proceeding including the order dated 06.10.2015 passed by the learned Sub-Divisional Judicial Magistrate, Daltonganj



in connection with Complaint Case No.1245 of 2014 is quashed and set aside against the petitioners.

10. In the result, this Criminal Miscellaneous Petition is allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 15th of October, 2025
AFR/ Saroj

Uploaded on 29/10/2025