

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.360 of 2020

Uma Mishra aged about 38 years, wife of Sri Sushil Mishra, daughter of Sri Madhusudan Tiwary, resident of Main Road, Loyla B.Ed. College, Kargil Laltanr, Birsangar, P.O. and P.S.-Birsanagar, Town-Jamshedpur, District East Singhbhum.

... Petitioner

Versus

1. The State of Jharkhand
2. Sushil Mishra son of Dinesh Mishra,
3. Dinesh Mishra son of Late Surjan Mishra,
4. Smt. Prema Devi wife of Dinesh Mishra,

No.2 to 4 are residents of Village Narauli, P.O. Amarpur, P.S.-Darauli, Dist.-Siwan (Bihar).

5. Dhiraj Tiwari wife of Binod Tiwari, D/o Dinesh Mishra, resident of Village Barka Manjha, P.O. and P.S.-Nautan, Dist.-Siwan (Bihar).

... Opposite Parties

For the Petitioner : Mr. Dilip Kr. Chakraverty, Advocate
For the State : Mr. Sunil Kr. Dubey, Addl.P.P.
For the O.P. No.2 : Mr. Girish Mohan 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 the prayer to quash and set aside the order dated 05.02.2019 passed by the learned Sessions Judge, East Singhbhum at

Jamshedpur in Criminal Revision No.349 of 2018 whereby and where under the learned Sessions Judge, East Singhbhum at Jamshedpur dismissed the criminal revision; which was directed against the order dated 09.08.2018 passed by the learned Judicial Magistrate-1st Class, Jamshedpur in C1 Case No.1052 of 2015, by which the learned Judicial Magistrate-1st Class closed the case of the complainant in respect of the evidence before charge on 13.07.2018 and discharged the accused persons of the case, as no evidence before charge could be produced by the complainant even after the complainant was given 10 different dates, on his prayer to adduce evidence starting from 19.04.2017 to 25.06.2018 on which date last chance was given to the complainant to examine the evidence before charge, but even after that another dated i.e. on 13.07.2018 was also given to the complainant to adduce evidence, but as he still did not adduce any evidence and as no evidence before charge was there in the record, the learned Judicial Magistrate-1st Class, Jamshedpur has discharged the accused persons of the case.

3. Being aggrieved by the said order, the complainant filed Criminal Revision No.349 of 2018, but the learned Sessions Judge, East Singhbhum at Jamshedpur was of the opinion that the period of 15 months and 11 different dates was sufficient enough time to given to the complainant to adduce before charge evidence and the order of closing the evidence of the complainant was never challenged and there is no illegality in the discharge order which was passed, in the absence of absolutely any

evidence before charge; even after adequate opportunity was given to the complainant, hence, dismissed the criminal revision.

4. Learned counsel for the petitioner submits that not a single witness has been examined by the complainant before charge and on hearing of the accused person, the learned Judicial Magistrate-1st Class, Jamshedpur considered that since no evidence was adduced by the complainant before charge despite strict directions and last chance, the learned Judicial Magistrate-1st Class, Jamshedpur discharged the accused persons of the case. It is next submitted that counsel for the complainant/petitioner did not inform to the complainant/petitioner that there was last chance given by the learned court below to adduce evidence. It is then submitted that non-production of complainant-witness is neither intentional nor deliberate, but the same resulted because of the communication gap between the petitioner/complainant and her counsel as the counsel was assuring the complainant/petitioner that the complainant/petitioner should not be in a hurry to adduce evidence, hence, on the assurance of the counsel, the petitioner did not adduce any evidence without understanding the technicality. It is lastly submitted that the prayer as prayed for, in this Cr.M.P., be allowed.

5. Learned Addl.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 the undisputed fact remains that though, the petitioner was given 11 dates for over a period of 15 months starting from 19.04.2017 to 30.07.2018, the

complainant/petitioner did not produced any witness and by no stretch of imagination such huge number of dates over a period of 15 months can be said to be an inadequate time, hence, there is no illegality committed by either the learned Judicial Magistrate-1st Class, Jamshedpur in dismissing the complaint or the learned Sessions Judge, East Singhbhum at Jamshedpur in dismissing the criminal revision when the petitioner/complainant did not fit it proper to challenge the order by which the evidence before charge was closed. Therefore, it is submitted that this Cr.M.P., 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 undisputed fact remains that the petitioner/complainant was given 11 different dates spreading over a period of 15 months to adduce evidence before charge including one date as last chance, but still the petitioner/complainant did not examine any witness. This only shows the laches on the part of the petitioner which cannot be condoned by taking a plea that the same was done at the instruction of the counsel when there is no material in the record to show that the petitioner has taken any action against the counsel for his professional misconduct of exhorting the complainant/petitioner not to adduce evidence in the case in any of the 11 dates over a period of 15 months. It is needless to mention that such time given to the complainant to adduce before charge evidence is sufficient time for any party to adduce before charge evidence. The undisputed fact remains that the

order by which the before charge evidence was closed, has not been challenged by the petitioner. Therefore, the said order has reached finality. The said order was not even challenged in the criminal revision. Under such facts of the case, this Court do not find any illegality either in the order dated 09.08.2018 passed by the learned Judicial Magistrate-1st Class, Jamshedpur in C1 Case No.1052 of 2015 or the order dated 05.02.2019 passed by the learned Sessions Judge, East Singhbhum at Jamshedpur in Criminal Revision No.349 of 2018 warranting interference of this Court in exercise of its power under Section 482 of the Cr.P.C.

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

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 10th of February, 2026
AFR/ Abhiraj

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