

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.411 of 2023

Rajveer Bhamra, aged about 22 years, Son of Shri Satender Pal Singh,
resident of Flat No.423, Block-6, Ashiana Wood Land, P.O. & P.S.-
Chandil, District-Seraikella-Kharsawan, Jharkhand.

... Petitioner

Versus

1. The State of Jharkhand
2. Sanjay Kumar Rai, son of Sri Raj Narain Rai, Resident of Baridih
Basti, House No.15A, Road No.1, Mithila Colony, P.O.-Agrico, P.S.-
Sidgora, Jamshedpur, District-East Singhbhum, Jharkhand.

... Opposite Parties

For the Petitioner : Md. Imran Hassan, Advocate
: Mr. Rohit Sinha, Advocate
: Mr. Vijay Shankar, Advocate
For the State : Mr. Manoj Kr. Mishra, Addl.P.P.
For the O.P. No.2 : Mr. Arpit 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 and set aside the entire criminal proceeding including the FIR in connection with Sakchi P.S. Case No.234 of 2021 registered for the offences punishable under Sections 379, 406, 448 & 34 of the Indian Penal Code against the petitioner.

3. Learned counsel for the petitioner submits that the investigation of the case is still going on and charge sheet has not yet been submitted.

4. The allegation against the petitioner is that the petitioner was having a duplicate key of the rented accommodation which the complainant took from the father of the petitioner, the key was to be used in emergency situations like short circuit etc., but the petitioner was using the said rented accommodation for his own purpose. There is further allegation that on 10.08.2025, when the complainant demanded the duplicate key from the petitioner, the petitioner became angry and threatened the complainant to vacate the premises. The complainant submitted a complaint to this effect in the office of the Superintendent of Police from where it was sent to the local Sakchi Police Station, but police did not pay any heed to the same, in collusion with the accused person. On 04.09.2021, the petitioner restrained the complainant from entering into the rented premises and threw out all the assets/articles of the complainant and gave the possession of the rented premises to the co-accused Ambesh Mishra and the co-accused Ambesh Mishra got possession of the said rented accommodation in collusion with the petitioner and his father.

5. The complainant filed C1 Case No.2525 of 2021 in the Court of learned Chief Judicial Magistrate, Jamshedpur which upon being referred to police under Section 156(3) Cr.P.C. and the police registered Sakchi P.S. Case No.234 of 2021 and took up investigation of the case which is going on.

6. Learned counsel for the petitioner submits that the undisputed facts remains that the place of rented premises is owned by the father of the

petitioner and the father of the petitioner has no grievance against the petitioner. It is next submitted that assuming for the sake of argument, the petitioner has entered into the house owned by his father, hence, the offence punishable under Section 448 of the Indian Penal Code will not be attracted.

7. Learned counsel for the petitioner submits that there is no allegation against the petitioner of being entrusted with any property or committing dishonest misappropriation of any property and in the absence of the same, the offence punishable under Section 406 of the Indian Penal Code is not made out.

8. Learned counsel for the petitioner next submits that since it is the admitted case of the complainant that all the assets/articles of the complainant were thrown out, so there is no allegation against the petitioner that the petitioner had any dishonest intention of taking the assets/articles of the complainant, so in the absence of such intention of the petitioner, the offence punishable under Section 379 of the Indian Penal Code is also not made out.

9. Learned counsel for the petitioners next relies upon the judgment of the Hon'ble Supreme Court of India in the case of **Satish Chandra Ratan Lal Shah vs. State of Gujarat & Anr.** reported in (2019) 9 SCC 148, and submits that in the facts of that case, when there was nothing either in the complaint or in any material before the Hon'ble Supreme Court of India pointing to the fact that any property was entrusted to the accused persons at all, which is dishonestly converted to his own use so as to

satisfy the ingredients of Section 405 of the India Penal Code for which punishment has been provided in Section 406 of the Indian Penal Code, the Magistrate in that case committed a serious error in issuing the process against the accused person for the offence punishable under Section 406 of the Indian Penal Code.

10. Learned counsel for the petitioner next submits, drawing attention of the Court to page-54 of the brief which is the copy of the certified copy of the order dated 13.12.2022 passed by the learned Chief Judicial Magistrate, Jamshedpur in Sakchi P.S. Case No.234 of 2021 and submits that the informant/complainant has filed a petition for release of the house hold articles which were lying in the Verandah which has been registered as M.C.A. No.8185 of 2022 that only corroborates that the petitioner has not taken any of the articles of the complainant/informant. It is next submitted that after the complaint made by the complainant, the matter was enquired into by the officer-in-charge of Sakchi Police Station and it was found that as per the terms of the agreement, one of the duplicate keys of the premises was to be with the owner of the rented premises and the allegation of threatening of the complainant by the petitioner was not supported by any of the persons of the local area. It is next submitted that as none of the offences in respect of which the FIR has been registered is made out, hence, the continuation of this criminal proceeding will amount to abuse of process of law, therefore, it is lastly submitted that the prayer as prayed for, in this Cr.M.P., be allowed.

11. 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 allegations made against the petitioner are sufficient to constitute each of the offences in respect of which the FIR has been registered. It is next submitted that the anticipatory bail of the petitioner has been rejected by the High Court and the Special Leave Petition has been dismissed by the Hon'ble Supreme Court of India and the petitioner is a student of A.R.K.A. Jain University but that will not absolve him of the allegations. Therefore, it is submitted that this Cr.M.P., being without any merit, be dismissed.

12. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, this Court finds that the undisputed facts remains that the father of the petitioner is the owner of tenanted premises and the father of the petitioner has no grievance against the petitioner. It is an admitted fact that a duplicate key of the tenanted premises was with the petitioner and his father as per the clause 13 of the terms and conditions of the rent agreement entered into between the parties, so when as per the rent agreement, the complainant consented access to the petitioner and his father to the rented premises by giving him a duplicate key, so entering the premises by using such key by itself will not amount to house trespass for which punishment has been provided for in Section 448 of the Indian Penal Code. Therefore, this Court is of the considered view that even if the allegations against the

petitioner are considered to be true in their entirety still the offence punishable under Section 448 of Indian Penal Code is not made out.

13. So far as the offence punishable under Section 406 of the Indian Penal Code is concerned, it is pertinent to mention here the essential ingredients to constitute the offence punishable under Section 406 are as follows:-

- (i) There must be an entrustment; and*
- (ii) there must be misappropriation or conversion to one's own use or use in violation of a legal direction or of legal contract.*

as has been held by the Hon'ble Supreme Court of India in the case of **Ram Narayan Popli vs. C.B.I.** reported in **(2003) 3 SCC 641**.

14. Now coming to the facts of the case, there is absolutely no allegation against the petitioner of entrustment of any property nor there is any allegation of dishonest misappropriation of any property etc. and in the absence of the same, this Court has no hesitation in holding that the offence punishable under Section 406 of the Indian Penal Code is not made out against the petitioner even if the allegations against the petitioner are considered to be true in their entirety either individually or with the aid of Section 34 of the Indian Penal Code.

15. So far as the offence punishable under Section 379 of the Indian Penal Code is concerned, it is pertinent to mention here that the essential ingredients to constitute the offence punishable under Section 379 of the Indian Penal Code are as follows:-

- (i) the accused removed any movable property,

(ii) the accused removed the property out of the possession of another person without his consent,

(iii) he did so with a dishonest intention as has been held by the Hon'ble Supreme Court of India in the case of **K. N. Mehra vs. State of Rajasthan** reported in **AIR 1957 SC 369**.

16. Now coming to the facts of the case, there is no allegation against the petitioner of removing the property with any dishonest intention and there is no allegation against the petitioner of removing the property to take the same and there is no allegation that any property of the complainant/informant is missing.

17. Under such circumstances, this Court is of the considered view that even if the allegations against the petitioner are considered to be true in their entirety still the offence punishable under Section 379 of Indian Penal Code is not made out even with the aid of Section 34 of the Indian Penal Code.

18. As submitted by the learned counsel for the petitioner which is also not disputed by the learned counsel for the opposite party no.2 that the office-in-charge of the Sakchi Police Station upon an enquiry did not find the allegations made by the complainant against the petitioner to be true and the copy of the same was received by the informant on 23.12.2021.

19. Under such circumstances, as none of the offences in respect of which the FIR has been registered is made out against the petitioner even if the allegations against the petitioner are considered to be true in their entirety , hence, this Court is of the considered view that the continuation

of this criminal proceeding against the petitioner will amount to abuse of process of law and this is a fit case where the entire criminal proceeding including the FIR in connection with Sakchi P.S. Case No.234 of 2021 registered for the offences punishable under Sections 379, 406, 448 & 34 of the Indian Penal Code against the petitioner, be quashed and set aside.

20. Accordingly, the entire criminal proceeding including the FIR in connection with Sakchi P.S. Case No.234 of 2021 registered for the offences punishable under Sections 379, 406, 448 & 34 of the Indian Penal Code against the petitioner, is quashed and set aside *qua* the petitioner only.

21. In the result, this Cr.M.P., stands allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 13th of February, 2026
AFR/ Abhiraj

Uploaded on 24/02/2026