

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 431 of 2022

Shankar Gope, aged about 49 years, son of Sri Bharat Gope, resident of Mango Gour Nager, P.O. and P.S. -Mango, Near Radha Krishna Mandir, Jamshedpur, District -East Singhbhum.

.... Petitioner

Versus

1. The State of Jharkhand
2. Champa Kumari @ Sampa, daughter of Hariya Pradhan, wife of Saheb Mahakud, presently residing at 41, Morakathi Basti, D Block, P.O. -Luabasa, P.S. -Birsanagar, Town Jamshedpur, District -East Singhbhum. Opp. Parties

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

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For the Petitioner	: Mr. Jitendra Nath Upadhyay, Advocate
For the State	: Mrs. Priya Shrestha, Spl. P.P.
For O.P. No.2	: Mr. Anurag Kashyap, Advocate
	: Ms. Supriya Dayal, 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 Complaint Case No. 544 of 2021 including the order dated 19.01.2022, passed by the learned Judicial Magistrate - 1st Class -V, Jamshedpur in the said Complaint Case No. 544 of 2021 whereby and where under the learned Judicial Magistrate - 1st Class-V, Jamshedpur has taken cognizance of the offences

punishable under Section 323/498A of the Indian Penal Code and under Section 3/4 of the Dowry Prohibition Act.

3. The allegation against the petitioner is that the petitioner being the brother-in-law of the husband of the complainant treated the complainant with cruelty in connection of demand of dowry of a vehicle, to be given by the parents of the complainant. There is specific allegation against the petitioner of assaulting and causing injury to the complainant on 08.07.2019, 15.09.2019 and 27.09.2019, because of non-fulfilment of demand dowry of the said vehicle by the parents of the complainant. On the basis of the complaint, statement of the complainant under solemn affirmation and the statement of the inquiry witnesses, the learned Judicial Magistrate -1st Class -V, Jamshedpur found *prima facie* case for the said offences and took cognizance of the same and passed the summoning order also.
4. It is submitted by the learned counsel for the petitioner that the petitioner is a practising lawyer of Civil Court, Jamshedpur and he has falsely been implicated in this case. It is next submitted by the learned counsel for the petitioner that the learned Magistrate without considering the materials in the record has taken cognizance of the offences. Hence, it is submitted that the prayer as prayed for in this criminal miscellaneous petition be allowed.
5. 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 in para-6, 10 & 13 of her statement on solemn

affirmation, the complainant has categorically stated about the specific act of assault and treatment of cruelty meted out by the petitioner to the complainant and there is also allegation against the petitioner of demanding dowry of a vehicle to be brought by the complainant from her parents. It is next submitted that the same is sufficient to constitute the offence punishable under Section 323/498A of the Indian Penal Code as well as Section 3/4 of the Dowry Prohibition Act. Hence, it is submitted that this criminal miscellaneous petition being without any merit be dismissed.

6. Having heard the submissions made at the Bar and after going through the materials in the record, this Court finds that the only contention of the petitioner is that the allegations against him are false. It is a settled principle of law that the 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**.
7. It is also a settled principle of law that the genuine prosecution cannot be stifled, 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**.

8. The Hon'ble Supreme Court of India in the case **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."

Has reiterated the settled principle of law that the defence of the accused person cannot be considered before the prosecution adduces the evidence.

9. Now coming to the facts of the case, as rightly submitted by the learned Spl. P.P. and the learned counsel for the opposite party no.2 that there is direct and specific allegation against the petitioner of demanding dowry of a motor vehicle as well as treating the complainant with cruelty by harassing her including assaulting her and causing hurt to her because of non-fulfilment of demand of dowry.

10. In view of the direct and specific allegation against the petitioner, this Court is of the considered view that this is not a fit case where the prayer as prayed for be acceded in exercise of the power under Section 482 of the Cr.P.C.
11. Accordingly, this criminal miscellaneous petition being without any merit is dismissed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 9th October, 2025
AFR/Sonu-Gunjan/-

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