

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.597 of 2025

Sunit Singh @ Tushar Singh, aged about 41 years, son of
Madhwendra Singh, resident of 42 Main Road, Jay Prakash Nagar,
P.O. Dhanbad, P.S. Dhanbad, District- Dhanbad (Jharkhand)

... Petitioner

Versus

The State of Jharkhand ... Opposite Party

For the Petitioner : Mr. Indrajit Sinha, Advocate.
Mr. Rishav Kumar, Advocate.
For the State : Ms. Nehala Sharmin, Spl. P.P.
For the O.P.2 : Mr. Mukesh Bihari Lal, 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 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 with the prayer to quash and set aside the entire criminal proceedings in connection with G.R. Case No. 130 of 2025, arising out of Jharia P.S. Case No. 122 of 2021 including the order dated 10.01.2025 passed by the learned Additional Chief Judicial Magistrate, Dhanbad whereby and where under the learned Additional Chief Judicial Magistrate, Dhanbad has taken cognizance of the offence punishable under Section 323 of the Indian Penal Code, basing upon the charge-sheet submitted by the police in the said case.

3. The allegation against the petitioner is that the petitioner who was in a car indicated the informant- who was also in a car, to stop the car of the informant but the informant did not stop. Thereafter, the car in which the petitioner was travelling, chased the car of the informant and overtook it. Two persons came out and indulged in scuffling (*hathapai*) and pushed the informant and took out Rs.22,500/- from the shirt pocket of the informant and also snatched away the gold chain from the informant and did *marpeet* with him and fled away.

4. It is submitted by the learned counsel for the petitioner relying upon the judgment of the Hon'ble the Supreme Court in the case of **Abhishek Saxena vs. The State of Uttar Pradesh** and another reported in **2023 INSC 1088** paragraph-9 of which reads as under:

"9. As noted earlier, except the statement that 'they beat up me' by the complainant no material whatsoever is available on record in regard to the commission of the said offence. The incident allegedly occurred on 12.06.2016. In the recorded statement of the second respondent-complainant or in the counter affidavit filed by the first respondent there is not even a whisper that after the incident she went to a doctor or underwent any kind of treatment. Needless to say, that there is no statement - at least that injury report was prepared. In this context, it is also to be seen in respect of the incident, the FIR got registered only on 04.09.2016, that too much after the filing of petition No. 13/2016 by the appellant herein. Above all, as noted earlier, basic ingredients to constitute an offence under Section 323, IPC is lacking in the chargesheet." (Emphasis supplied)

that therein the Hon'ble Supreme Court of India has held that the allegation that the words "they beat up me" which literally means 'marpeet' in the colloquial language, in this locality of the country, by

itself, will not constitute the offence punishable under Section 323 of the Indian Penal Code.

6. Learned counsel for the petitioner next submits that till today no prosecution witnesses have been examined. It is next submitted that no offence punishable under Section 323 I.P.C. is made out even if the entire allegation made against the petitioner are considered to be true in their entirety. Hence, the prayer as prayed for by the petitioner made in this criminal miscellaneous application be allowed.

7. Learned Spl.P.P. appearing for the state and the learned counsel for the Opposite Party No.2 on the other hand vehemently opposes the prayer of the petitioner made in this Cr.M.P. and submits that the materials in the record is sufficient to constitute the offence punishable under Section 323 of the I.P.C., hence, it is submitted that this Cr.M.P. being without any merit, be dismissed.

8. Having heard the submissions made at the bar and after carefully going through the materials available in the record, this court is of the considered view that the only allegation against the petitioner is that the petitioner was in a car from which two persons got out (obviously indicating other than the petitioner) and they scuffled with the informant and did *marpeet*, but there is no allegation against anyone of causing any hurt that is bodily pain, disease or any infirmity to any person. In the absence of the same, this court is of the considered view that even if the entire allegation made against the petitioner considered to be true in their entirety, still the offence punishable under Section 323 of the IPC is not

made out, hence, this Court is of the considered view that the continuation of the criminal proceeding against the petitioner will amount to abuse of process of law. Therefore, this is a fit case where the entire criminal proceedings in connection with G.R. Case No. 130 of 2025, arising out of Jharia P.S. Case No. 122 of 2021 including the order dated 10.01.2025 passed by the learned Additional Chief Judicial Magistrate, Dhanbad, be quashed and set aside.

9. Accordingly, the entire criminal proceedings in connection with G.R. Case No. 130 of 2025, arising out of Jharia P.S. Case No. 122 of 2021 including the order dated 10.01.2025 passed by the learned Additional Chief Judicial Magistrate, Dhanbad, is quashed and set aside qua the petitioner only.

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

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 09th of April, 2026
AFR/ Amar

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