

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Revision No. 309 of 2025

1. Rajni Swarup @ Rajni Swaroop, aged about 64 years, wife of Chitranjan Swarup
2. Chitranjan Swarup, aged about 65 years, son of Govind Swarup
Both residents of B-17, Sector-J, Aliganj, Lucknow, P.O. and P.S. Aliganj,
District-Lucknow (Uttar Pradesh-226024)

..... ... Petitioners

Versus

- 1.The State of Jharkhand
2. Nikhil Srivastav son of Dr. Ajay Kumar Srivastav, resident of C-1 Old Mines
Rescue, Nayisarai, P.O. and P.S. Ramgarh, District-Ramgarh (Jharkhand)

..... ... Opposite Parties

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner	: Mr. Sanjay Kumar Pandey, Advocate
For the State	: Mr. Pankaj Kr. Mishra, A.P.P.
For the O.P. No.2	: Mr. Gaurav Kumar, Advocate

03/ 19.09.2025: Heard learned counsel for the petitioners and learned counsel for the State and learned counsel for the O.P. No.2.

2. The present revision application has been filed against the order dated 27.01.2025 passed by learned Chief Judicial Magistrate, Ramgarh in Ramgarh P.S. Case No. 04/2023, G.R. No. 289 of 2023 (Miscellaneous Criminal Application No. 2446 of 2024), whereby the discharge petition filed by the petitioners under section 239 of Cr.P.C., has been rejected, pending in the Court of learned Chief Judicial Magistrate, Ramgarh.

3. It transpires that this petition has been filed directly before the High Court without approaching the learned Sessions Judge.

4. The scope and ambit of Section 397 of the Code is not only confined to the correctness or legality of the order but also to its propriety. Both the Courts of Sessions and Magistrate are inferior to the High Court and Courts of Judicial Magistrate are inferior to the Court of Sessions Judge. When an order is passed by the learned Sessions Judge, the only remedy left with the aggrieved party is to approach the High Court under the said Code to question correctness, legality or propriety, but when the same is passed by

a Magistrate, though power lies to both the Sessions and the High Court, but as a matter of prudence and propriety, it will be appropriate to first approach the first forum and except in rare and special circumstances to the High Court. Such special circumstances may be where the Sessions Judge has directly or indirectly participated in the enquiry or investigation or trial or through his any action or order interest of justice demands that High Court alone should interfere in the order of the learned Magistrate.

5. This issue in question has already been decided in ***Criminal Revision No. 417 of 2023*** in the case of ***Dharam Kumar Saw @ Dharam Kr. Gupta and others Vs. State of Jharkhand and Another*** by order dated 11.09.2025.

6. Nothing special circumstance has been shown to this Court to directly approaching the High Court and in view of that the case of the petitioner is covered in the light of judgment passed in ***Cr. Revision No. 417 of 2023***.

7. Consequently, this criminal revision is dismissed. Interim order dated 25.03.2025, is vacated. However, the petitioners are at liberty to file fresh revision petition before the learned Sessions Judge and for purpose of limitation pendency of this criminal revision before this Court will be taken into consideration.

(Sanjay Kumar Dwivedi, J.)

satyarthi-
Dt. 19.09.2025