

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.1233 of 2025

1. Wamla Choularoong @ Wannisa Chaibamrung @ Wannisa Chaubareng @ Wannisa Chaibreng @ Wamlsa, aged about 26 years, d/o Prachnap Chaiyabamrung, resident of 168/7, Pong Chairay, Post Office and Police Station Pong, District Pong, Province Phayao, Thailand, Passport No. AB4455204.
2. Wanida Lemontee @ Wanida, aged about 38 years, d/o Utai Sonangam, resident of 72/14, Nong Khon, Post Office Central, Police Station & District Mueang Udon Thani, Province Udon Thani, Thailand, Passport No. AC6406571.
3. Wiranchana Yangsuai @ Wironchana Yang Suai @ Wiranchana, aged about 41 years, d/o Wantee yangsuai, resident of 179/14, T. Pang, Ngufnang, Han, Post Office Central, Police Station & District Mueang Udon Thani, Province Udon Thani, Thailand, Passport No. AC2508210.

... Petitioners

Versus

The State of Jharkhand ... Opposite Party

For the Petitioners : Md. Afaque Rashidi, Advocate
Md. Azam, Advocate
Ms. Aulia Begum, Advocate
For the State : Mr. Subodh Kumar Dubey, Addl.P.P.

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- **I.A. No.13254 of 2025**

2. Heard the parties.

3. Learned counsel for the petitioners submits that this interlocutory application has been filed for early hearing of this Criminal Miscellaneous Petition.

4. Since the hearing of this Criminal Miscellaneous Petition is taken up today, hence, this interlocutory application is disposed of being infructuous.

(Anil Kumar Choudhary, J.)

Cr.M.P. No.1233 of 2025

1. Heard the parties.

2. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 528 of the B.N.S.S., 2023 with the prayer to quash the cognizance order dated 01.08.2024 passed in G.R. Case No.1672 of 2024 arising out of Lalpur P.S. Case No.146 of 2024 including the FIR and the entire criminal proceedings in connection with Lalpur P.S. Case No.146 of 2024 by which the learned Judicial Magistrate-XXXII, Ranchi has taken cognizance of the offences punishable under Sections 467, 420, 290, 294/34 of the Indian Penal Code, Sections 3, 4, 5, 7 of the Immoral Traffic (Prevention) Act, 1956 and Section 47(a) of the Excise Act.

3. The allegation against the petitioners is that the petitioners being the citizens of Thailand, were indulging in prostitution within a distance of 200 Meters of places of public religious worship, educational institutions, hostel, hospital, nursing home and other public places. There is also allegation against the petitioners that the documents, they were having, were forged documents. On the basis of the written report submitted by the informant, police registered Lalpur P.S. Case No.146 of 2024 and took up investigation of the case and after

completion of investigation, police submitted charge sheet *inter alia* against the petitioners and on the basis of the same, the learned Judicial Magistrate-XXXII, Ranchi has taken cognizance of the offences as already indicated above.

4. Learned counsel for the petitioners submits that the case is next fixed for consideration of framing of charge. It is next submitted that the allegations made against the petitioners are false. They are not prostitutes rather they are the employees engaged in the Spa. Their documents are genuine. No offence in respect of which the cognizance has been taken is made out against any of the petitioners. Hence, it is submitted that the prayer as prayed for in this Criminal Miscellaneous Petition be allowed.

5. Learned Addl.P.P. appearing for the State on the other hand vehemently opposes the prayer of the petitioners made in this Criminal Miscellaneous Petition and submits that there is direct and specific allegation against each of the three petitioners and they were indulging in prostitution in the vicinity of the public places punishable under Section 7 of the Immoral Traffic (Prevention) Act, 1956. Besides, there is direct and specific allegation against the petitioners of forging their documents punishable under Section 465 of the Indian Penal Code. It is next submitted that it is a settled principle of law that a Magistrate, at the time of taking cognizance, cannot add or subtract any Section of the offences, in respect of which the charge sheet has been submitted but the Magistrate or the concerned court is free to do the same, at the time of framing of charge under Section 216, 218 and 228 of the Code of Criminal Procedure and that stage has yet to come. Besides, there are other accused persons in this case, so, all the offences in respect of which the cognizance has been taken need not refer to the petitioners and the specific allegation against the petitioners,

can be known only after the order is passed by the learned Magistrate in respect of framing of charge. It is then submitted, it is premature at this stage to quash the entire criminal proceedings. Hence, it is submitted that this Criminal Miscellaneous Petition, 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, it is a settled principle of law as has been held by the Hon'ble Supreme Court of India in the case of **State of Gujarat vs. Girish Radhakrishnan Varde** reported in (2014) 3 SCC 659, para-15 of which reads as under:-

"15. The question, therefore, emerges as to whether the complainant/informant/prosecution would be precluded from seeking a remedy if the investigating authorities have failed in their duty by not including all the sections of IPC on which offence can be held to have been made out in spite of the facts disclosed in the FIR. The answer obviously has to be in the negative as the prosecution cannot be allowed to suffer prejudice by ignoring exclusion of the sections which constitute the offence if the investigating authorities for any reason whatsoever have failed to include all the offences into the charge-sheet based on the FIR on which investigation had been conducted. But then a further question arises as to whether this lacunae can be allowed to be filled in by the Magistrate before whom the matter comes up for taking cognizance after submission of the charge-sheet and as already stated, the Magistrate in a case which is based on a police report cannot add or subtract sections at the time of taking cognizance as the same would be permissible by the trial court only at the time of framing of charge under Sections 216, 218 or under Section 228 CrPC as the case may be which means that after submission of the charge-sheet it will be open for the prosecution to contend before the appropriate trial court at the stage of framing of charge to establish that on the given state of facts the appropriate sections which according to the prosecution should be framed can be allowed to be framed. Simultaneously, the accused also has the liberty at this stage to submit whether the charge under a particular provision should be framed or not and this is the appropriate forum in a case based on police report to determine whether the charge can be framed and a particular section can be added or removed depending upon the material collected during investigation as also the facts disclosed in the FIR and the charge-sheet."

wherein the Hon'ble Supreme Court of India has categorically laid down the law that if the investigating authorities for any reason whatsoever have failed to include all the offences into the charge sheet based on the FIR on which investigation had been conducted, the Magistrate before whom the matter comes up for taking cognizance after submission of the charge sheet, cannot fill up the lacuna, as the Magistrate in a case which is based on a police report cannot add or subtract sections at the time of taking cognizance and the same would be permissible by the trial court only at the time of framing of charge under Sections 216, 218 or under Section 228 of the Code of Criminal Procedure as the case may be.

7. Now coming to the facts of the case, there is direct and specific allegations against the petitioners of indulging in prostitution in the vicinity of the public places which is punishable under Section 7 of the Immoral Traffic (Prevention) Act, 1956. There are also allegations against the petitioners of committing forgery of their identity documents which is punishable under Section 465 of the Indian Penal Code.

8. In view of the direct and specific allegations against the petitioners, this Court is not inclined to quash the entire criminal proceedings in connection with Lalpur P.S. Case No.146 of 2024 including the FIR and the cognizance order dated 01.08.2024 passed in G.R. Case No.1672 of 2024 arising out of Lalpur P.S. Case No.146 of 2024 against the petitioners; as the matter is at the nascent stage and pending for consideration of framing of charge as well as the fact that the materials in the record are sufficient to constitute some of the offences already indicated in the foregoing paragraphs of this judgement.

9. Accordingly, this Criminal Miscellaneous Petition, being without any merit, is dismissed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 16th of October, 2025
AFR/ Saroj

Uploaded on 29/10/2025