

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.1256 of 2024

1. Hari Dayal Srivastava, aged about 58 years, son of Late Govind Lal Srivastava,
 2. Shiv Dayal Srivastava, aged about 57 years, son of Late Govind Lal Srivasatava,
 3. Mala Srivastava, aged about 63 years, daughter of Late Govind Lal Srivastava,
- All presently residing at C/O C.D. Singh, 2nd Floor, Suresh Colony, P.O.-Hazaribagh, P.S.-Sadar, District-Hazaribagh, Jharkhand.

... Petitioners

Versus

1. The State of Jharkhand
2. Pushpa Srivastava, wife of Surya Prakash and daughter of late Govind Lal Srivastava, presently resident of Bara Akhara Chowk, P.O.-Hazaribagh, P.S.-Sadar, District-Hazaribagh.

... Opposite Parties

For the Petitioners : Mr. Kumar Vaibhav, Advocate
For the State : Mr. Satish Prasad, Addl.P.P.

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 arising out of Hazaribagh Sadar P.S. Case No.29 of 2014

corresponding to G.R. No.163 of 2014 including the order dated 25.05.2015 whereby and where under the learned trial Court has taken cognizance of the offences punishable under Sections 341, 323, 379, 386 & 120B of the Indian Penal Code against the petitioners on the basis of the charge sheet submitted by the police, after investigation of the case, finding the said allegations to be true.

3. The allegation against the petitioners is that the petitioners in criminal conspiracy with each other on 13.01.2014 at 6 AM caused hurt to the informant, wrongfully confined her by beating her after catching hold of the hair of the informant, broke open the door of the house of the informant. As the informant raised hue and cry, the neighbors assembled in her house and after that co-accused persons committed theft of the articles in the house of the informant, committed mischief and demanded extortion by putting the informant in fear of death and grievous hurt, to deliver her house to them.

4. On the basis of the written report submitted by the informant, police registered Hazaribagh Sadar P.S. Case No.29 of 2014 and took up investigation of the case and after completion of investigation, police found the allegations against the petitioners to be true and submitted charge sheet. Basing upon the charge sheet submitted by the police, the learned Magistrate has taken the cognizance of the offences as already indicated above in the foregoing paragraphs of this judgement, against the petitioners.

5. Learned counsel for the petitioners submit that the charge has not been framed in this case and the case is next fixed to 27.01.2026 for consideration of framing of charge.

6. Learned counsel for the petitioners next submit that the allegation against the petitioners is false and the informant is the sister of the petitioners. It is next submitted that the allegations are absurd. It is next submitted that the petitioner no.2 has lodged Hazaribagh Sadar P.S. Case No.30 of 2014 and to save herself from that case, this false case has been foisted by the informant. It is lastly submitted that the prayer as prayed for, in this Cr.M.P, be allowed.

7. Learned Addl.P.P. appearing for the State on the other hand vehemently opposes the prayer of the petitioners made in the instant Cr.M.P and submit that there is direct and specific allegation against the petitioners for having committed each of the offences for which cognizance has been taken by the learned Magistrate and during the investigation of the case, the witnesses have supported the case of the prosecution and the only contention of the petitioners, that the allegation against the petitioners is false, is the defence of the petitioners, which the petitioners can take during the trial of the case, but certainly, the same is not a ground to quash the entire criminal proceeding. Therefore, it is submitted that this Cr.M.P., being without any merit, be dismissed.

8. 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 there is direct and specific allegations

against the petitioners of causing hurt to the informant, wrongfully restraining her, committing theft of articles and demanding extortion by putting the informant in fear of death and grievous injury, to deliver her house and there is direct and specific allegations against the petitioners that the same is committed in criminal conspiracy with each other and the only contention of the petitioners is that the allegations against them are false and that this case is a counter case of Hazaribagh Sadar P.S. Case No.30 of 2014 lodged by the petitioner no.2.

9. It is a settled principle of law as has been held by the Hon'ble Supreme Court of India in the case of **T.T. Antony v. State of Kerala & Others** reported in (2001) 6 SCC 181, that a case and a counter case can go together and merely because there is a counter case, the same is not a ground to quash the entire criminal proceeding of any case.

10. It is also a settled principle of law that the defence of the petitioner and the veracity of the evidence put forth by the accused, cannot be considered, in exercise of 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.

11. The Hon'ble Supreme Court of India, in the case of **State of Uttar Pradesh & Anr. vs. Akhil Sharda & Ors.** reported in 2022 LiveLaw SC 594 reiterated the settled principle of law that no mini trial can be conducted by the high court in exercise of power under Section 482 Cr.P.C, the relevant portion of which reads as under :-

“Having gone through the impugned judgment and order passed by the High court has set aside the criminal proceedings in exercise of powers under Section 482 CrPC, it appears that the High Court has virtually conducted a mini trial, which as such is not permissible at this stage and while deciding the application under Section 482CrPC. As observed and held by this court in a catena of decisions, no mini trial can be conducted by the High Court in exercise of power under Section 482CrPC, jurisdiction and at the stage of deciding the application under Section 482CrPC, the High Court cannot get into appreciation of evidence of the particular case being considering. (Emphasis supplied)

12. In view of the discussions made above since the offences in respect of which the cognizance has been taken by the learned Magistrate is in fact made out against the petitioner, on the basis of the materials available in the record, therefore, this Court do not find any justifiable reason to accede to the prayer of the petitioner made in this Cr.M.P. in exercise of the power under Section 482 of the Code of Criminal Procedure.

13. Accordingly, this Cr.M.P., being without any merit is dismissed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 22nd of January, 2026
AFR/ Abhiraj

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