

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.2654 of 2025

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1. Samanta Dan, aged about 78 years, S/o Kali Pad Dan, R/o Village-Nawatar, P.O. & P.S.-Tundi, District-Dhanbad, Jharkhand.
 2. Rajesh Dan @ Rajesh Kumar Dan, aged about 46 years, S/o Samanta Dan, R/o Village-Nawatar, P.O. & P.S.-Tundi, District-Dhanbad, Jharkhand.

... Petitioners

Versus

1. The State of Jharkhand
2. Mamuni Dan, W/o Sri Manbodhan Dan, at present R/o Village-Road Govindpur, P.O. + P.S.-Govindpur, Distt.-Dhanbad.

... Opposite Parties

For the Petitioners	: Mr. Raj Nandan Chatterjee, Advocate
	: Ms. Priya Saw, Advocate
For the State	: Mr. Manoj Kr. Mishra, 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 528 of the BNSS, 2023 with twin prayers but at the outset, the learned counsel for the petitioners submit that the petitioners do not press the prayer to quash the order dated 12.02.2012/13.02.2012 passed by the learned Judicial Magistrate, Dhanbad in connection with C.P. Case No.169 of 2010 registered for the offences punishable under Section 498A, 323, 452, 506 of the Indian Penal Code, hence the said prayer is rejected as not pressed.

3. Learned counsel for the petitioners confines this criminal miscellaneous petition only to the prayer to quash the order dated 01.09.2014 passed by the learned Judicial Magistrate, Dhanbad in connection with C.P. Case No.169 of 2010 registered for the offences punishable under Section 498A, 323, 452, 506 of the Indian Penal Code whereby and where under the learned Judicial Magistrate, Dhanbad has issued proclamation under Section 82 of the Code of Criminal Procedure.

4. Learned counsel for the petitioners submits that the proclamation under Section 82 of Cr.P.C. has been issued vide order dated 01.09.2014 without following the due process of law and without recording the satisfaction that the petitioners are absconding or concealing themselves to evade their arrest; which is a *sine qua non* for issuing proclamation under Section 82 of Cr.P.C., that too without fixing any time and place for appearance of the petitioners, who are the accused persons of the said case. Hence, it is submitted that the order dated 01.09.2014 passed by the learned Judicial Magistrate, Dhanbad in connection with C.P. Case No.169 of 2010 registered for the offences punishable under Section 498A, 323, 452, 506 of the Indian Penal Code whereby and where the learned Judicial Magistrate, Dhanbad has issued proclamation under Section 82 of the Code of Criminal Procedure, be allowed.

5. Learned Addl.P.P. appearing for the State vehemently opposes the prayer for quashing the order dated 01.09.2014 passed by the learned Judicial Magistrate, Dhanbad in connection with C.P. Case No.169 of 2010 registered for the offences punishable under Section 498A, 323, 452, 506 of

the Indian Penal Code whereby and whereunder the learned Judicial Magistrate, Dhanbad has issued proclamation under Section 82 of the Code of Criminal Procedure and submits that the very fact that the learned Judicial Magistrate, Dhanbad has issued the proclamation under Section 82 of Cr.P.C. itself shows that there were materials available in the record for the learned Judicial Magistrate, Dhanbad to be satisfied that there is justification for issuance of such proclamation. 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 by now it is a settled principle of law that the court which issues the proclamation under Section 82 of Cr.P.C. must record its satisfaction that the accused in respect of whom the proclamation under Section 82 of Cr.P.C. is made, is absconding or concealing themselves to evade their arrest and in case the court decides to issue proclamation under Section 82 of Cr.P.C. it must mention the time and place for appearance of the petitioners in the order itself by which the proclamation under Section 82 of Cr.P.C. is issued. As already indicated above since the learned Judicial Magistrate, Dhanbad has neither recorded its satisfaction that the petitioners are absconding or concealing themselves to evade their arrest nor fixed any time or place for appearance of the petitioners, this Court has no hesitation in holding that the learned Judicial Magistrate, Dhanbad has committed illegality by

issuing the said proclamation under Section 82 of Cr.P.C. without complying the mandatory requirements of law. Hence, the same is not sustainable in law and the continuation of the same will amount to abuse of process of law and this is a fit case where the order dated 01.09.2014 passed by the learned Judicial Magistrate, Dhanbad in connection with C.P. Case No.169 of 2010 registered for the offences punishable under Section 498A, 323, 452, 506 of the Indian Penal Code whereby and where the learned Judicial Magistrate, Dhanbad has issued proclamation under Section 82 of the Code of Criminal Procedure, be quashed and set aside *qua* the petitioners only.

7. Accordingly, the order dated 01.09.2014 passed by the learned Judicial Magistrate, Dhanbad in connection with C.P. Case No.169 of 2010 registered for the offences punishable under Section 498A, 323, 452, 506 of the Indian Penal Code whereby and where the learned Judicial Magistrate, Dhanbad has issued proclamation under Section 82 of the Code of Criminal Procedure, is quashed and set aside *qua* the petitioners only.

8. The learned Judicial Magistrate, Dhanbad may pass a fresh order in accordance with law.

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

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 15th of June, 2026
AFR/ Abhiraj

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