

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 1640 of 2025

1. Vishwaroop Nanjachar @ Vishwaroop Najacher, aged about 51 years, S/O late N.V. Nanjachar, Manager -Customer Accounts Support, Caterpillar Financial Services India Pvt. Ltd. having Registered Office at Ground Floor, Crescent - 1, Prestige Shantiniketan, Whitefield, PO & PS - White Field, District-Bengaluru, Hoodi, Bengaluru, Karnataka, - 560048.
2. Ranjeet Jha @ Ranjeet Kumar Jha, aged about 45 years, S/O late Amarnath Jha, Manager - Customer Accounts Support, Caterpillar Financial Services India Pvt. Ltd. having Registered Office at Ground Floor, Crescent - 1, Prestige Shantiniketan, Whitefield, PO & PS - Whitefield, District - Bengaluru, Hoodi, Bengaluru, Karnataka - 560048.
3. Satish Kumar, aged about 33 years, S/O Sri Kanhaiyalal, Field Accounts Services Representative, Caterpillar Financial Services India Pvt. Ltd. having Registered Office at Ground Floor, Crescent - 1, Prestige Shantiniketan, Whitefield, PO & PS - Whitefield, District - Bengaluru, Hoodi, Bengaluru, Karnataka - 560048.
4. Shankar Ojha, aged about 48 years, S/O Sri Manoranjan Ojha, Field Accounts Services Representative, Caterpillar Financial Services India Pvt. Ltd. having Registered Office, at Ground Floor, Crescent - 1, Prestige Shantiniketan, Whitefield, PO & PS - Whitefield, District - Bagaluru, Hoodi, Bengaluru, Karnataka - 560048.

... **Petitioners**

Versus

1. The State of Jharkhand.
2. Binod Kumar Yadav, S/O Sri Jitan Gope, R/O Village - Karso, PS - Barhi, PO - Barhi, District - Hazaribagh, State - Jharkhand.

... **Opp. Parties**

For the Petitioner : Mr. Shailesh Poddar, Advocate
For the Opp. No. 2 : None
For the State : Mr. Pankaj Kr. Mishra, P.P.

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- Heard the parties.

2. Though the notice has been validly served upon the Opp. Party No. 2, yet no one turns upon the Opp. Party No. 2 in spite of repeated calls.

3. 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 the order dated 09.07.2024 passed in Complaint Case No. 398 of 2024 by learned SDJM, Hazaribagh.

4. The allegation against the petitioners is that the petitioners being the employees of Caterpillar Financial Services India Pvt. Ltd. has repossessed the Hydraulic Machine bearing Model No. 380 D3GC, upon failure of the complainant to pay only two installments without any notice and in the process of repossession, when the same was objected by the complainant, the petitioners assaulted the complainant and wrongfully restrained him. On the basis of the complainant's statement on solemn affirmation and statement of the inquiry witness, the learned SDJM has found *prima facie* case for the offence punishable under Sections 323, 341 and 379 / 34 of the Indian Penal Code but apparently, inadvertently has not mentioned the name of the accused in the summoning order and instead of mentioning the names of the accused, has just mentioned that "Accused Namely".

5. Learned counsel for the petitioners further submits by relying upon a judgment of the Hon'ble Supreme Court of India in the case of *Charanjit Singh*

Chadha & Others Vs. Sudhir Mehra reported in (2001) 7 SCC 417 that it has categorically been held therein by the Hon'ble Supreme Court of India that if the hirer of the vehicle has himself committed a default in not paying the installments and under the agreement, the accused persons have taken repossession of the vehicle, such defaulting hirer of a vehicle cannot have any grievance and such person cannot be permitted to claim that the owner of the vehicle has committed theft of the vehicle or criminal breach of trust or cheating. It is next submitted that in this case, as categorically mentioned by the complainant in Para No. 12 of his statement on solemn affirmation in answer to a question from the Court that he defaulted in payment of two installments and as per Clause 16 of the agreement entered into between the parties, in case of even a single default of the installment without notice, the financier can repossess the vehicle in respect of finances advanced; hence, it is submitted that even if the entire allegation, in view of the admission of default of payment of the installment dues of the complainant and the entire allegation made against the petitioners are considered to be true in its entirety, still no offence punishable under law, is made out. It is lastly submitted that the prayer as prayed for in this Cr.M.P., be allowed.

6. Learned Additional P.P. opposes the prayer of the petitioners and submits that the allegations made against the petitioner are sufficient to constitute the offences, in respect of which prima facie case has been found by the learned SDJM, Hazaribagh. It is lastly submitted that this criminal miscellaneous petition being without any merit, be dismissed.

7. Having heard the submissions made at the bar and after going through the materials on record, this Court finds that the undisputed fact remains that the complainant took loan from the employer of the petitioners, namely, Caterpillar

Finances Services India Pvt. Ltd. to purchase the machine; which has been repossessed. Further the undisputed fact also remains that the complainant defaulted in payment of two installments and thereafter the vehicle has been repossessed. The only grievance of the complainant is that without any notice such repossession has been made. But again, the undisputed fact remains that under the agreement, the employer of the petitioners was entitled for repossession of the vehicle even in a case of similar default in payment of the installment dues, without any notice.

8. Under such circumstances, in view of the settled principles of law in the case of *Charanjit Singh Chadha (supra)*, this Court is of the considered view that even if the entire allegation made against the petitioners are considered to be true, still the offence punishable under Sections 379 of the Indian Penal Code is made out. The allegations under Sections 341 and 323 appears to be not maintainable in nature and lacks any detail.

9. Under such circumstances, the continuation of the Criminal Miscellaneous Petition will amount to an abuse of process of law. Therefore, this this is a fit case where the prayer as prayed for to quash the *order dated 09.07.2024* passed in *Complaint Case No. 398 of 2024*, be allowed.

10. Therefore, the *order dated 09.07.2024* passed in *Complaint Case No. 398 of 2024* by learned SDJM, Hazaribagh, is quashed and set aside qua the petitioners.

11. This Criminal Miscellaneous Petition stands *allowed*.

(Anil Kumar Choudhary, J.)