

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.2164 of 2024

Vipul Shreyashkar @ Bipul Shreshkar, aged about 41 years, Son of Ashok Lal Paswan @ Ashok Kumar Lal, Resident of Bank Colony, Patratu Basti, Behind Ramgarh Block Office, P.O. & P.S.- Ramgarh, District- Ramgarh, Jharkhand.

... Petitioner

Versus

1. The State of Jharkhand
2. Dr. Nitish Kumar, aged about 38 years, Son of Late Baijnath Paswan, Resident of village- Lakshmipur, P.O. & P.S. - Lakshmipur, District- Jamui, Bihar, presently residing at Quarter No. C/36, Hospital Colony, Central Hospital, Dhor, P.O. & P.S. - Bermo, District- Bokaro, Jharkhand.

... Opposite Parties

For the Petitioner	: Mr. Santosh Kr. Jha, Advocate Mr. Sumit Gautam, Advocate Mr. Anjani Kumar, Advocate
For the State	: Mr. Pankaj Kr. Mishra, Addl.P.P.
For the OP No.2	: Mr. Atanu Banerjee, Advocate Mr. Suman Kr. Ghosh, Advocate

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 B.N.S.S., 2023 with the prayer to quash the entire criminal proceedings in connection with

Complaint Case No. 154 of 2018 including the order dated 23.02.2024 passed by the learned Sub-Divisional Judicial Magistrate, Bermo at Tenughat whereby and where under the learned Sub-Divisional Judicial Magistrate, Bermo at Tenughat has found *prima facie* case for the offences punishable under Sections 341, 323, 506/34 of the Indian Penal Code.

3. The allegation against the petitioner is that the petitioner on 12.02.2018 at about 12:00 Noon when the complainant was sitting in the chamber of his advocate, caused hurt to the complainant by assaulting him with his belt and snatched away the wrist watch. The petitioner is the brother of the wife of the complainant. On the basis of the complaint, the statement on solemn affirmation of the complainant and the statement of the inquiry witnesses, the learned Sub-Divisional Judicial Magistrate, Bermo at Tenughat has found *prima facie* case for the said offences; as already indicated above and passed the summoning order against the petitioner.

4. Learned counsel for the petitioner submits that the allegation against the petitioner is false. It is next submitted that the sister of the petitioner instituted Bermo P.S. Case No. 97 of 2015 involving the offences punishable under Sections 498A, 323, 504/34 of the Indian Penal Code and Section 3, 4 of the Dowry Prohibition Act, hence, this false case has been foisted against the petitioner. It is lastly submitted by the learned counsel for the petitioner that the prayer as prayed for in this Criminal Miscellaneous Petition be allowed.

5. Learned Addl.P.P. appearing for the State and the learned counsel for the opposite party No.2 on the other hand vehemently oppose the prayer of the petitioner made in this Criminal Miscellaneous Petition and submit that the only plea of the petitioner is that the allegations against him are false; which is at best the defence of the petitioner, which he can take during the trial of the case; but the same cannot be a ground to quash the entire criminal proceedings, as the defence of the accused persons cannot be considered by the High Court in exercise of its power under Section 528 of the B.N.S.S., 2023, which corresponds to Section 482 of the Code of Criminal Procedure. It is next submitted that the undisputed fact remains that the materials available in the record if are considered to be true in their entirety, then, the offences in respect of which the *prima facie* case found out by the learned Sub-Divisional Judicial Magistrate, Bermo at Tenughat, is in fact, made out against the petitioner. 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 the only contention of the petitioner for quashing the entire criminal proceedings is that the allegations against him are false.

7. It is a settled principle of law that the High Court in exercise of its power under Section 528 of the B.N.S.S., 2023 which corresponds to

Section 482 of the Code of Criminal Procedure cannot consider the defence of the accused person of the case or the veracity of the evidence put forth by the accused as that would be the 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 & Others** reported in **2004 2 Supreme 501**.

8. It is also a settled principle of law that no mini trial can be conducted by the High Court in exercise of its power under Section 528 of the B.N.S.S., 2023 which corresponds to Section 482 of the Code of Criminal Procedure as has been held by the Hon'ble Supreme Court of India in the case of **State of Uttar Pradesh & Another vs. Akhil Sharda & Others** reported in **2022 LiveLaw SC 594**, 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)"

9. Now coming to the facts of the case, the undisputed fact remains that if the allegations made against the petitioner in the complaint, the statement on solemn affirmation of the complainant and the statement of the inquiry witnesses are considered to be true in their entirety, then

the offences in respect of which the *prima facie* case has been found out by the learned Sub-Divisional Judicial Magistrate, Bermo at Tenughat, is in fact, made out against the petitioner.

10. The contention of the petitioner that the allegations against him are false, is at best a defence of the petitioner which the petitioner can take during the full-dress trial of the case but certainly, the same is not a ground to quash the entire criminal proceedings.

11. In view of the discussions made above, this Court is of the considered view that this is not a fit case where the prayer of the petitioner made in this Criminal Miscellaneous Petition is to be acceded to in exercise of its power under Section 528 of the B.N.S.S., 2023.

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

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 19th of February, 2026
AFR/ Saroj

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