

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.2652 of 2020

Deepak Prakash, aged about 60 years, son of Late Bipin Bihari Prasad, resident of A-39, Patel Park, Harmu Housing Colony, P.O.- Harmu, P.S.- Argora, District- Ranchi, Jharkhand.

... Petitioner

Versus

1. The State of Jharkhand
2. Shyamal Kishore Singh, S/o Late Nand Kishore Singh R/o Shiv Shanduri Road, P.O. + P.S. Nagar, District- Dumka, Jharkhand.

... Opposite Parties

For the Petitioner	: Mr. Sagar Kumar, Advocate
For the State	: Mr. Manoj Kumar, GA III
	Mr. Ashok Kr. Yadav, Sr. SC I
For the O.P. No.2	: Mr. Gaurav Abhishekh, 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 482 of the Code of Criminal Procedure with the prayer to quash the entire criminal proceedings including the F.I.R. being Dumka (Town) P.S. Case No.298 of 2020 registered for the offences punishable under Sections 124A, 504, 506, 120B of the Indian Penal Code.

3. The brief facts of the case is that Dumka (Town) P.S. Case No.298 of 2020 has been registered on the basis of the written report submitted by the informant alleging that the petitioner being the President of the B.J.P.,

Jharkhand Pradesh in a press conference stated that he will topple the present State Government within two months and after that the Government of B.J.P. will be formed in the State of Jharkhand and the present Jharkhand Government will not be allowed to continue. It is alleged in the First Information Report that the formation of the Government of a different party amount to entering into a criminal conspiracy for dislodging the Government which has been formed in a democratic process and such utterances amounts to committing murder of democracy, which is against the provisions of the Constitution of India and the Indian Penal Code.

4. Learned counsel for the petitioner submits that investigation of the case is going on at present. Learned counsel for the petitioner relies upon the judgment of the Hon'ble Supreme Court of India in the case of **Kedar Nath Singh Vs. State of Bihar** reported in **1962 SCC OnLine SC 6** and submits that the Hon'ble Supreme Court of India reiterated the settled principle of law that so far as the offence punishable under Section 124A of the Indian Penal Code is concerned, criticism of public measures or comment on Government action, howsoever, strongly worded, would be within reasonable limits and would be consistent with the fundamental rights of freedom of speech and expression and it is only when the words written or spoken etc. which have the pernicious tendency or intention of creating public disorder or disturbance of law and order, that the law steps in to prevent such activities in the interest of public order. It is next submitted that it is acceptable for the State President of a National Political Party to give a press statement that the Government of that political party will be formed in the State of Jharkhand in next two months and that can by

no stretch of imagination, be stated that to bring hatred or contempt or excite disaffection towards any Government established by law.

5. Learned counsel for the petitioner next relies upon the judgment of the Hon'ble Supreme Court of India in the case of **Vinod Dua Vs. Union of India & Others** reported in (2023) 14 SCC 286 and submits that in that case, the Hon'ble Supreme Court of India relied upon its own judgment in the case of **Kedar Nath Singh Vs. State of Bihar** (supra) para-56 of which reads as under:-

"56. The principles culled out in para 45 hereinabove from the decision of the Court in Kedar Nath Singh [Kedar Nath Singh v. State of Bihar, 1962 SCC OnLine SC 6 : 1962 Supp (2) SCR 769 : AIR 1962 SC 955] show that a citizen has a right to criticise or comment upon the measures undertaken by the Government and its functionaries, so long as he does not incite people to violence against the Government established by law or with the intention of creating public disorder; and that it is only when the words or expressions have pernicious tendency or intention of creating public disorder or disturbance of law and order that Sections 124-A and 505IPC must step in." (Emphasis supplied)

and submits that as there is no allegation against the petitioner of inciting people by violence against the Government established by law nor there is any allegation of creating any public disorder nor there is any pernicious tendency alleged against the petitioner. Hence, it is submitted that the offence punishable under Section 124A of the Indian Penal Code is not made out against the petitioner even if the entire allegations made against the petitioner are considered to be true in their entirety.

6. Learned counsel for the petitioner further relies upon the judgment of this Court in the case of **Rajib Kumar Singh & Others Vs. The State of Jharkhand & Another** passed in Cr.M.P. No.1793 of 2020 dated 06th of May, 2024 and submits that therein this Court relied upon the judgment of the

Hon'ble Supreme Court of India in the case of **Vikram Johar Vs. State of Uttar Pradesh & Another** reported in (2019) 14 SCC 207, para-24 and 25 of which reads as under:-

"24. Now, we revert back to the allegations in the complaint against the appellant. The allegation is that the appellant with two or three other unknown persons, one of whom was holding a revolver, came to the complainant's house and abused him in filthy language and attempted to assault him and when some neighbours arrived there the appellant and the other persons accompanying him fled the spot. The above allegation taking on its face value does not satisfy the ingredients of Sections 504 and 506 as has been enumerated by this Court in the above two judgments. The intentional insult must be of such a degree that should provoke a person to break the public peace or to commit any other offence. The mere allegation that the appellant came and abused the complainant does not satisfy the ingredients as laid down in para 13 of the judgment of this Court in Fiona Shrikhande [Fiona Shrikhande v. State of Maharashtra, (2013) 14 SCC 44 : (2014) 1 SCC (Cri) 715] .

25. Now, reverting back to Section 506, which is offence of criminal intimidation, the principles laid down by Fiona Shrikhande [Fiona Shrikhande v. State of Maharashtra, (2013) 14 SCC 44 : (2014) 1 SCC (Cri) 715] has also to be applied when question of finding out as to whether the ingredients of offence are made or not. Here, the only allegation is that the appellant abused the complainant. For proving an offence under Section 506 IPC, what are the ingredients which have to be proved by the prosecution? Ratanlal & Dhirajlal on Law of Crimes, 27th Edn. with regard to proof of offence states the following:

"... The prosecution must prove:

(i) That the accused threatened some person.

(ii) That such threat consisted of some injury to his person, reputation or property; or to the person, reputation or property of someone in whom he was interested;

(iii) That he did so with intent to cause alarm to that person; or to cause that person to do any act which he was not legally bound to do, or omit to do any act which he was legally entitled to do as a means of avoiding the execution of such threat." (emphasis supplied)

A plain reading of the allegations in the complaint does not satisfy all the ingredients as noticed above."

and submits that the allegation of offence punishable under Section 504 and 506 of the Indian Penal Code against the petitioner is not made out in the absence of any allegation that the petitioner intentionally insulted

anyone or criminally intimidated anyone. Hence, it is submitted that continuation of this criminal proceeding against the petitioner will amount to abuse of process of law. It is, lastly submitted that the prayer as prayed for in this Criminal Miscellaneous Petition be allowed.

7. Learned GA-III appearing for the State on the other hand vehemently opposes the prayer of the petitioner made in this Criminal Miscellaneous Petition and submits that it is a settled principle of law that the F.I.R. is not encyclopaedia of the prosecution case and the prosecution case can develop and change during the course of the investigation of the case and during the investigation of the case even there are instances where the informant has also been made accused person.

8. Learned counsel for the opposite party No.2 also on the other hand vehemently opposes the prayer of the petitioner made in this Criminal Miscellaneous Petition and submits that if the entire allegations made against the petitioner in the F.I.R. are considered to be true in their entirety, then all of the three offences in respect of which the F.I.R. has been registered, is made out. Hence, it is submitted that this Criminal Miscellaneous Petition, being without any merit, be dismissed.

9. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, so far as the offence punishable under Section 124A of the Indian Penal Code is concerned, the essential ingredients are as follows:

- (i) The accused wrote or spoke or made signs or visible representation or did some other acts;
- (ii) The accused brought or attempted to bring into hatred or contempt thereby;

- (iii) The accused excited or attempted to excite disaffection;
 - (iv) Such hatred or disaffection was towards the Government of India; or
 - (v) Any Government established by law;
- as has been held by the Hon'ble Supreme Court of India in the case of **Bilal Ahmed Kaloo Vs. State of A.P.** reported in (1997) 7 SCC 431.

10. It is a settled principle of law has that the sedition- the crime against society is nearly allied to that of treason and it frequently precedes treason by a short interval.

11. Now coming to the facts of the case, the undisputed fact remains that the petitioner at the relevant time was State President of National Political Party namely B.J.P. It is the fundamental principle of political science that every political party aspires to form a Government. The statement which is attributed to the petitioner is that he stated that the Government of B.J.P. will be formed in the State of Jharkhand by destabilizing the present Government. There is no allegation against the petitioner that he has uttered anything to indicate that he attempted to bring hatred or contempt thereby exciting or attempting to excite disaffection against the Government by law established.

12. Under such circumstances, this Court is of the considered view that even if the entire allegations made against the petitioner in the F.I.R. are considered to be true in their entirety, still the same is insufficient to constitute the offence punishable under Section 124A of the Indian Penal Code.

13. So far as the offence punishable under Section 504 of the Indian Penal Code is concerned, the essential ingredients of the said offence are as follows:-

- (i) The accused intentionally insulted someone;
- (ii) He thereby intended to give him provocation;
- (iii) The accused knew that it was likely that such provocation would cause that person to commit a breach of peace or to commit any other offence;

14. Now coming to the facts of the case, there is absolutely no allegation against the petitioner of intentionally insulting anybody. Claim by the President of the State Unit of a National Political Party that the Government of his party will be formed in the State of Jharkhand in the next two months, by no stretch of imagination, can be termed as intentionally insulting anybody provoking him to commit breach of peace or commit any other offence.

15. Under such circumstances, this Court is of the considered view that even if the entire allegations made against the petitioner are considered to be true in their entirety, still the offence punishable under Section 504 of the Indian Penal Code is not made out.

16. So far as the offence punishable under Section 506 of the Indian Penal Code is concerned, the essential ingredients to constitute the said offence are as follows:-

- (i) The accused threatened someone with injury to the person, reputation or property or to the person's reputation or property with whom the victim is connected;
- (ii) The accused did so with intent to cause alarm to the victim of the offence;

- (iii) The accused did so to cause the victim to perform any act which he was not legally bound to do;

17. Now coming to the facts of the case, there is absolutely no allegation against the petitioner of threatening anyone with injury to his personal reputation or property nor there is any allegation that the petitioner did anything to cause alarm to the victim of any offence or to cause the victim to perform any act which he was not legally bound to do.

18. Under such circumstances, this Court is of the considered view that even if the entire allegations made against the petitioner are considered to be true in their entirety, still the offence punishable under Section 506 of the Indian Penal Code is not made out.

19. So far as the contention of the learned GA-III that the F.I.R. is not the encyclopaedia of prosecution case is concerned, the same is a settled principle of law but the *sine qua non* for registering an F.I.R. is that contents of the F.I.R. must reveal a cognizable offence. Unless the contents of the information given to the police reveals any cognizable offence, the police is not empowered to register any First Information Report, as has been held by the Hon'ble Supreme Court of India in the case of **State of Haryana & Others Vs. Bhajan Lal & Others** reported in **1992 Supp 1 SCC 335** in para-102 of which judgement, the Hon'ble Supreme Court of India has laid down the law inter alia that if the contents of the F.I.R. do not disclose any cognizable offence, such F.I.R. is to be quashed and set aside in exercise of the power under Section 482 of the Code of Criminal Procedure or Article 226 of the Constitution of India.

20. In view of the discussion made above, since even if the contents of the F.I.R. are considered to be true in their entirety, none of the cognizable

offence for which the F.I.R. has been registered is made out, hence, this Court is of the considered view that the continuation of the criminal proceeding against the petitioner will amount to abuse of process of law. Therefore, this is a fit case where the entire criminal proceedings including the F.I.R. being Dumka (Town) P.S. Case No.298 of 2020 be quashed and set aside.

21. Accordingly, the entire criminal proceedings including the F.I.R. being Dumka (Town) P.S. Case No.298 of 2020 is quashed and set aside.

22. In the result, this Criminal Miscellaneous Petition is allowed.

23. In view of disposal of this Criminal Miscellaneous Petition, the interim relief granted earlier vide order dated 12.01.2021 is vacated.

24. The Registry is directed to intimate the court concerned forthwith.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 19th of September, 2025
AFR/ Saroj