

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 3332 of 2022

1. Noor Alam @ Nur Alam, aged about 75 years, s/o late Abdul Wahid, r/o Village-House No. 55, Meena Bazar Pathar Chapti, Madhupur, P.O. & P.S.-Madhupur, Dist.-Deoghar (Jharkhand)
2. Sadab Ali @ Pappu @ Shadab Ali, aged about 46 years, s/o Noor Alam, r/o Village-House No. 55, Meena Bazar Pathar Chapti, Madhupur, P.O. & P.S.-Madhupur, Dist.-Deoghar (Jharkhand)
3. Tanveer Alam @ Tanvir Alam @ Raja, aged about 38 years, s/o Noor Alam, r/o Village-House No. 55, Meena Bazar Pathar Chapti, Madhupur, P.O. & P.S.-Madhupur, Dist.-Deoghar (Jharkhand)
4. Shakir Ali @ Sahab, aged about 34 years, s/o Noor Alam, r/o Village-House No. 55, Meena Bazar Pathar Chapti, Madhupur, P.O. & P.S.-Madhupur, Dist.-Deoghar (Jharkhand)

.... Petitioners

Versus

1. The State of Jharkhand
2. Umakant Dwivedi, s/o Shashikant Dwivedi, r/o Patardih, P.O.-Remba, P.S.-Hiradih, Dist.-Giridih

.... Opp. Parties

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

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For the Petitioner	: Mr. Kripa S. Nanda, Advocate
	: Mr. Niranjana Kr. Sinha, Advocate
For the State	: Mrs. Priya Shrestha, Spl. P.P.
For O.P. No.2	: Mr. Rajesh Kumar, Advocate
	: Mr. Manindra Kr. Sinha, Advocate
	: Mr. Amit Kumar, Advocate

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By the Court:-

1. Heard the parties.

2. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 482 of Cr.P.C. with the prayer to quash the order taking cognizance dated 20.02.2021 passed by the learned S.D.J.M., Madhupur in connection with Madhupur P.S. Case No. 126 of 2020, corresponding to G.R. No. 206 of 2021 of the court of learned Sub Divisional Judicial Magistrate, Madhupur.
3. The brief fact of the case is that Madhupur P.S. Case No. 126 of 2020 has been registered on the basis of the written report submitted by the Junior Engineer, Madhupur alleging therein that on 22.07.2020 when doctor Md. Eqbal reached the place of occurrence for swab testing of the concerned persons, the petitioners along with co-accused persons being member of unlawful assembly used criminal force against the said doctor by abusing him and in violation of the Covid-19 Pandemic restrictions acted for spreading of Covid 19 pandemic and made murderous assault upon the said doctor.
4. Police after completion of the investigation submitted charge sheet against the petitioners for having committed the offences punishable under Sections 353, 307, 188, 269, 270 and 271 of Indian Penal Code and under Section 3 of Epidemic Disease Act and under Section 54 of Disaster Management Act and the learned S.D.J.M., Madhupur has taken cognizance of the said offences and committed the case to the Court of Sessions.

5. It is submitted by the learned counsel for the petitioners that though charge has already been framed in this case, but the same is not under challenge. It is then submitted by the learned counsel for the petitioners that the petitioners are innocent persons and this false case has been foisted against the petitioners. It is further submitted by the learned counsel for the petitioners that the Deputy Superintendent of Sub-Division Hospital, Madhupur has intimated that there was no such occurrence as alleged. Hence, it is submitted that the prayer as prayed for in this criminal miscellaneous petition be allowed.
6. Learned Spl. P.P. appearing for the State and the learned counsel for the opposite party no.2 on the other hand opposes the prayer and submits that there is direct and specific allegation against the petitioners of committing murderous assault on the doctor who went to collect the swab as per the protocol, that was prevalent to control the Covid-19 Pandemic and there is direct allegation against the petitioners of using criminal force against the public servants for deterring them from discharging their duties hence, the materials in the record are sufficient to constitute each of the offences in respect of which charge has already been framed against the petitioners, of course, which is not under challenge. Hence, it is 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 in the record, it is pertinent to mention here

that there is direct and specific allegation against the petitioners of attempting to commit murder of the doctor who went to collect the swab of the petitioners and their family members for testing, as per the protocol prevalent at that time because of the Covid-19 Pandemic. There is also allegation against the petitioners being member of unlawful assembly, using criminal force against the public servants deterring them from discharging their duties. These acts of the petitioners resulted in spreading of Covid 19 pandemic. These in the considered opinion of this Court, is sufficient to constitute each of the offences in respect of which charge has already been framed though the same is not under challenge.

8. The contention of the petitioners that the allegation against them are false are at best a defence of the petitioners which can be considered at the full dress trial of the case but certainly, the same is not a ground to quash the order taking cognizance, as it is a settled principle of law that the defence of the accused person of any case and the veracity of the evidence put forth by the accused person of any case, 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**.
9. It is also a settled principle of law that the genuine prosecution cannot be stifled with, in exercise of power under Section 482

Cr.P.C. as has been held by the Hon'ble Supreme Court of India in the case of **Monica Kumar (Dr.) and Another vs. State of Uttar Pradesh** and others reported in (2008) 8 SCC 781.

10. It is also a settled principle of law that the defence of the accused person cannot be considered before the prosecution adduces evidence as has been held by the Hon'ble Supreme Court of India, in the case of **Harjinder Singh v. State of Punjab and Another** reported in 2025 SCC OnLine SC 1029, paragraph no.11 of which reads as under :-

"11. The primary argument of Respondent no. 2 rests on his alibi. An alibi, however, is a plea in the nature of a defence; the burden to establish it rests squarely on the accused. Here, the documents relied upon, parking chit, chemist's receipt, OPD card, CCTV clip, have yet to be formally proved. Until that exercise is undertaken, they remain untested pieces of paper. To treat them as conclusive at the threshold would invert the established order of criminal proceedings, requiring the Court to pronounce upon a defence before the prosecution is allowed to lead its full evidence. Even assuming the documents will eventually be proved, their face value does not eclipse the prosecution version. The parking slip is timed at 06:30 a.m.; the chemist's bill and CCTV images are from 12:09 p.m. The confrontation is alleged at 08:30 a.m. A road journey from Jagowal to Chandigarh of roughly ninety kilometres in a private vehicle can comfortably be accomplished within the intervening window. More importantly, abetment to suicide is not an offence committed at a single moment. It may consist of a build-up of psychological pressure culminating in self-destruction, and the law punishes that build-up wherever and whenever it occurs."
(Emphasis supplied)

11. In view of the discussions made above, this Court is of the considered view that there is no justifiable reason to accede to the prayer of the petitioners made in this criminal miscellaneous petition in exercise of the power under Section 482 of Cr.P.C.

12. Accordingly, this criminal miscellaneous petition being without any merit is dismissed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 18th September, 2025
AFR/Sonu-Gunjan/-