

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 2844 of 2025

Sunita Devi @ Sunita Soni, aged about 67 years, wife of
Lt. Dinesh Kumar Soni, resident of F. N-1/D, Shivam
Apartment, Opp. Hari Bhawan, P.O. & P.S. Harmu,
District Ranchi. Petitioner

Versus

The State of Jharkhand Opposite Party

For the Petitioner : Mr. P.S.A.S.Pati , Adv.

For the State : Mr. Praful Jojo , Addl. PP

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 BNSS, 2023 with the prayer for quashing and setting aside the entire criminal proceeding arising out of Bariatu P.S. case no. 189 of 2022 corresponding to G.R. case no. 705 of 2025 as well as the order dated 03.03.2025 whereby and whereunder, learned JMFC, XXI, Ranchi has taken cognizance *inter alia* of the offences punishable under Sections 341, 323, 307, 34 of IPC.
3. It is submitted by learned counsel for the petitioner drawing attention of the court to the copy of the concerned order, that the co-ordinate Bench of this Court has already quashed the entire criminal proceeding qua Nidhi Kumari Soni, who is the daughter of the petitioner, vide order dated 19.08.2025 passed in W.P.(Cr.) no. 353 of 2023 relying upon the judgment of the Hon'ble Supreme Court, in the case of **State of Rajasthan versus Shobha Ram** reported in (2013) 14 SCC 732, at paragraph 9 of which reads as under: -

"9. A perusal of Section 34 IPC would clearly indicate that there must be two ingredients for convicting a person with the aid of

Section 34 IPC. Firstly, there must be a common intention and secondly, there must be participation by the accused persons in furtherance of the common intention. If the common intention is proved, it may not be necessary that the acts of the several persons charged with commission of an offence jointly must be the same or identically similar. The acts may be different in character, but must be arising out of the same common intention in order to attract the provision. The said principle is reiterated in a three-Judge Bench decision in Suresh v. State of U.P. [(2001 3 SCC 673 : 2001 SCC (Cri) 601] and Ramaswami Ayyangar versus State of T.N. [(1976) 3 SCC 779 : 1976 SCC (Cri) 518], SCC p. 783, para 12)

"12. ... The acts committed by different confederates in the criminal action may be different but all must in one way or the other participate and engage in the criminal enterprise, for instance, one may only stand guard to prevent any person coming to the relief of the victim, or may otherwise facilitate the [commission of crime]. Such a person also commits an 'act' as much as his co-participants actually committing the planned crime."

In the case of an offence involving physical violence, the person who instigates or aids the commission of the crime must be physically present and such presence of those who in one way or the other facilitate the execution of the common design, in itself tantamount to actual participation in the "criminal act".

- wherein the Hon'ble Supreme Court of India has categorically stated that in the case of an offence involving physical violence, the person who instigates or aids the commission of the crime, must be physically present and such presence of those who in one way or the other facilitate the execution of the common design, in itself tantamount to actual participation in the "criminal act".
4. It is next submitted that in that case, the Hon'ble Supreme Court of India also relied upon the its own judgment in the case of **Lovely Salhotra versus State (NCT of Delhi)**, reported in **(2018) 12 SCC 391 : 2017 SCC OnLine SC 636** at paragraph 3 wherein Hon'ble Supreme Court of India has held as under: -

"3. We have taken into account the facts of the matter in question as it appears to us that no cognizable offence is made out against the appellants herein. The High Court was wrong in holding that the FIR cannot be quashed in part and it ought to have appreciated the fact that the appellants herein cannot be allowed to suffer on the basis of the complaint filed by Respondent 2 herein only on the ground that the investigation against co-accused is still pending. It is pertinent to note that the learned Magistrate has opined that no offence is made out against Co-

accused 2, 3, 4 and 6 prima facie. According to us, the FIR in question filed against the appellants herein by Respondent 2 is only an afterthought with the sole intention to pressurize the appellants not to prosecute their criminal complaint filed by them under Section 138 of the Negotiable Instruments Act, 1881."

Wherein the Hon'ble Supreme Court of India has reiterated the settled principle of law that the FIR can be quashed in part. It is next submitted that admittedly, the petitioner was not present at the place of occurrence, hence, with the aid of Section 34 of the IPC, the petitioner ought not be proceeded with in the criminal case. It is lastly submitted that the prayer as made in this criminal miscellaneous petition be allowed.

5. Learned Addl. PP on the other hand vehemently oppose the prayer of the petitioner and submits that this Criminal Miscellaneous Petition being without any merit, be dismissed.
6. Having heard the submissions made at the Bar and after going through materials available in the record, it is apparent that the main allegation is against the co-accused Nitesh Soni, Jitesh Soni, Sunita Devi, Ajay Verma and Rakesh Sharma and there is no allegation that the petitioner was present at the place of occurrence at any point of time during the occurrence and the only allegation against the petitioner is that at the instance of the petitioner, the co-accused person committed the alleged crime.
7. Under such circumstances, this Court is of the considered view that since the petitioner was not present at any point of time during the entire alleged occurrence hence, continuation of the criminal proceeding with the aid of Section 34 of the IPC, against the petitioner will amount to abuse of process of law, therefore, this is a fit case where the entire criminal proceeding arising out of Bariatu P.S. case no. 189 of 2022 corresponding to G.R. case no. 705 of 2025 as well as the order dated 03.03.2025 passed by learned JMFC, XXI, Ranchi be quashed and set aside *qua* the petitioner.

8. Accordingly, the entire criminal proceeding arising out of Bariatu P.S. case no. 189 of 2022 corresponding to G.R. case no. 705 of 2025 as well as the order dated 03.03.2025 passed by learned JMFC, XXI, Ranchi is quashed and set aside *qua* the petitioner.
9. This Criminal Miscellaneous Petition is allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated, the 8th October, 2025
Smita / AFR

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