

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.3510 of 2022

1. Bhola Kumar Barman @ Bhola Prasad Barman @ Bhola Prasad Berman, aged about 30 years, S/o Late Ishwar Prasad Burman.
2. Gita Devi, aged about 48 years, W/o Late Ishwar Prasad Burman.
3. Rukmini Devi, aged about 21 years, D/o Late Ishwar Prasad Burman.
4. Gopal Kumar Burman @ Gopal Berman, aged about 27 years, S/o Late Ishwar Prasad Burman.
5. Kanhaiya Kumar Burman @ Kanhaiya Berman, aged about 25 years, S/o Late Ishwar Prasad Burman.

All R/o Village-Bhelatand, P.O.-Bhelatand, P.S.-Jogta, District-Dhanbad.

... Petitioners

Versus

1. The State of Jharkhand
2. Priti Devi, D/o Late Shivshankar Prasad Verma, R/o Village-Jhumritilaya, Devi Mandap Road, Indrapuri Mohalla, Ward No.25, P.O. + P.S.-Tilaya, District-Koderma.

... Opposite Parties

For the Petitioners : Mr. Mukesh Bihari Lal, Advocate
For the State : Mr. Pankaj Kumar, P.P.
For the O.P. No.2 : Md. Zaid Ahmed, 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 and set aside the order dated 09.06.2020 passed by learned Chief Judicial Magistrate, Dhanbad in connection with Jogta P.S. Case No.27 of 2019 corresponding to G.R. No.935 of 2020 whereby and whereunder the learned Chief Judicial Magistrate, Dhanbad has taken cognizance of the offence punishable under Section 498A read with 34 of the Indian Penal Code. Prayer has also been made to quash the entire criminal proceeding arising out of Jogta P.S. Case No.27 of 2019 corresponding to G.R. Case No.935 of 2020 as well.

3. Learned counsel for the petitioners submit that the charge has not yet been framed in this case and the next date of listing of this case is 27.11.2025 for appearance of the accused person. It is next submitted that the present case being the Jogta P.S. Case No.27 of 2019 is the second FIR in respect of the self-same occurrence for which Koderma Mahila P.S. Case No.05 of 2019 was lodged on 22.04.2019 in which the petitioners were also accused persons, hence, the FIR of this case is hit by Section 162 of the Cr.P.C.. It is lastly submitted that the prayer as prayed for in this Cr.M.P., be allowed.

4. Learned 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 the instant Cr.M.P and submit that this case has been instituted for the additional offence of causing miscarriage of the informant without her consent, but it is fairly submitted that the date, when the alleged occurrence of causing miscarriage of the informant

without her consent was committed, has not been mentioned in the FIR. Hence, it is submitted that this Cr.M.P., being without any merit, be dismissed.

5. 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 perusal of the FIR of Koderma Mahila P.S. Case No.05 of 2019 which was registered on 22.04.2019 goes to show that the allegations therein is that consequent upon the marriage of the informant of that case, who is also the informant of this Jogta P.S. Case No.27 of 2019, with the petitioner no.1 herein, seven years prior to institution of that case, she was treated with cruelty by the petitioner no.2 being her mother-in-law and after some years, the petitioner no.3 & 5 along with the petitioner no.1 demanded dowry and treated the informant with cruelty and she was assaulted every day. The petitioner No.1 intended to solemnize his second marriage after leaving the informant and one year prior to institution of the said FIR, her husband deserted her by dropping her at her paternal house and was not wanting to take her back.

6. The perusal of the FIR of this Jogta P.S. Case No.27 of 2019 which was lodged on 10.08.2019 reveals that in this case also, the same informant has alleged that on 27.06.2012 she married the petitioner no.1, she was alright for some years, but after the death of her father-in-law, the petitioners treated the informant with cruelty both physically and mentally on the demand of additional dowry and caused miscarriage of

her child and she was not provided proper food or clothes in her matrimonial house and a secluded dirty room was provided for her living and attempt was made to kill her. On 05.02.2018, she was driven out from her matrimonial house after retaining all her jewellerys in her matrimonial house and the petitioner no.1 also used to go to her paternal house and demanded money to be given by her family members or else, he will solemnize his second marriage and whenever, the informant used to tell the petitioner no.1 to go to her matrimonial house, petitioner no.1 was threatening to kill her and when the informant went to her matrimonial house along with her brother and mother, the petitioner no.2 to 5 assaulted her causing injury to her and did not allow her to enter to her matrimonial house.

7. It is a settled principle of law as has been held by the Hon'ble Supreme Court of India in the case of **Tarak Das Mukherjee & Ors. vs. State of Uttar Pradesh & Ors.** in Criminal Appeal No. 1400 of 2022 dated 23.08.2022, paragraph nos. 9, 11 and 12 of which reads and under:-

"9. We have heard the learned counsel appearing for the appellants who submitted that both the first and second FIRs are based on the same set of facts and the same cause of action. Relying upon decisions of this Court in the case of Upkar Singh v. Ved Prakash, (2004) 13 SCC 292 and T.T. Antony v. State of Kerala, (2001) 6 SCC 181 the learned counsel submitted that registration of second FIR is a gross abuse of process of law.

11. We have perused both the FIRs. The respondent no.4 is the first informant in both the FIRs and the same are based on the same agreement for sale executed on 14th June 2006. The allegation made in both the FIRs is the same. The allegation is that by practising forgery and fraud, the appellant no.1 has sold the subject property to appellant no.2 thereby deceiving the respondent no.4. The second FIR, which

is the subject matter of challenge, was registered nearly four years after the first FIR was registered. The challenge to the first FIR is pending before the High Court. These aspects have been completely overlooked by the High Court in the impugned judgment.

12. If multiple First Information Reports by the same person against the same accused are permitted to be registered in respect of the same set of facts and allegations, it will result in the accused getting entangled in multiple criminal proceedings for the same alleged offence. Therefore, the registration of such multiple FIRs is nothing but abuse of the process of law. Moreover, the act of the registration of such successive FIRs on the same set of facts and allegations at the instance of the same informant will not stand the scrutiny of Articles 21 and 22 of the Constitution of India. The settled legal position on this behalf has been completely ignored by the High Court." (Emphasis supplied)

That if multiple First Information Reports by the same person against the same accused are permitted to be registered in respect of the same set of facts and allegations, it will result in the accused getting entangled in multiple criminal proceedings for the same alleged offence; therefore, the registration of such multiple FIRs is nothing but abuse of the process of law.

8. The Hon'ble Supreme Court of India in the case of **T.T. Antony vs. State of Kerela & Ors.** reported in (2001) 6 SCC 181, paragraph nos. 25 and 27 of which reads as under:-

"25. Where the police transgresses its statutory power of investigation the High Court under Section 482 CrPC or Articles 226/227 of the Constitution and this Court in an appropriate case can interdict the investigation to prevent abuse of the process of the court or otherwise to secure the ends of justice.

27. A just balance between the fundamental rights of the citizens under Articles 19 and 21 of the Constitution and the expansive power of the police to investigate a cognizable offence has to be struck by the court. There cannot be any controversy that subsection (8) of Section 173 CrPC empowers the police to make further investigation, obtain

further evidence (both oral and documentary) and forward a further report or reports to the Magistrate. In Narang case [(1979) 2 SCC 322 : 1979 SCC (Cri) 479] it was, however, observed that it would be appropriate to conduct further investigation with the permission of the court. However, the sweeping power of investigation does not warrant subjecting a citizen each time to fresh investigation by the police in respect of the same incident, giving rise to one or more cognizable offences, consequent upon filing of successive FIRs whether before or after filing the final report under Section 173(2) CrPC. It would clearly be beyond the purview of Sections 154 and 156 CrPC, nay, a case of abuse of the statutory power of investigation in a given case. In our view a case of fresh investigation based on the second or successive FIRs, not being a counter-case, filed in connection with the same or connected cognizable offence alleged to have been committed in the course of the same transaction and in respect of which pursuant to the first FIR either investigation is under way or final report under Section 173(2) has been forwarded to the Magistrate, may be a fit case for exercise of power under Section 482 CrPC or under Articles 226/227 of the Constitution." (Emphasis supplied)

has held that a case of fresh investigation based on the second or successive FIRs, not being a counter-case, filed in connection with the same or connected cognizable offence alleged to have been committed in the course of the same transaction and in respect of which pursuant to the first FIR either investigation is under way or final report under Section 173(2) has been forwarded to the Magistrate, is a fit case for exercise of power inter alia under Section 482 CrPC.

9. The Hon'ble Supreme Court of India in the case of **Upkar Singh v. Ved Prakash and others** reported in (2004) 13 SCC 292, paragraph no. 17 of which reads and under :-

"17. It is clear from the words emphasised hereinabove in the above quotation, this Court in the case of T.T. Antony v. State of Kerala [(2001) 6 SCC 181: 2001 SCC (Cri) 1048] has not excluded the registration of a complaint in the nature of a counter-case from the purview of the Code. In our

opinion, this Court in that case only held that any further complaint by the same complainant or others against the same accused, subsequent to the registration of a case, is prohibited under the Code because an investigation in this regard would have already started and further complaint against the same accused will amount to an improvement on the facts mentioned in the original complaint, hence will be prohibited under Section 162 of the Code. This prohibition noticed by this Court, in our opinion, does not apply to counter-complaint by the accused in the first complaint or on his behalf alleging a different version of the said incident.” (Emphasis supplied)

has held that any further complaint by the same complainant or others against the same accused, subsequent to the registration of a case, is prohibited under the Code because an investigation in this regard would have already started and further complaint against the same accused will amount to an improvement on the facts mentioned in the original complaint, hence will be prohibited under Section 162 of the Code.

10. Now coming to the facts of the case, there is no allegation made in the FIR of this Jogta P.S. Case No.27 of 2019 after 22.04.2019 on which date, the Koderma Mahila P.S. Case No.05 of 2019 was registered.

11. Under such circumstances, this Court has no hesitation in holding that this is the second FIR in respect of the self-same occurrence by the same informant against the same petitioners who are also the accused persons of the Koderma Mahila P.S. Case No.05 of 2019, hence, the order dated 09.06.2020 passed by learned Chief Judicial Magistrate, Dhanbad in connection with Jogta P.S. Case No.27 of 2019 corresponding to G.R. No.935 of 2020 by which the learned Chief Judicial Magistrate, Dhanbad

has taken cognizance of the offence punishable under Section 498A read with 34 of the Indian Penal Code consequent upon the charge sheet as well as the entire criminal proceeding arising out of Jogta P.S. Case No.27 of 2019 corresponding to G.R. Case No.935 of 2020 is not sustainable in law being hit by Section 162 of the Cr.P.C.

12. Accordingly, the order dated 09.06.2020 passed by learned Chief Judicial Magistrate, Dhanbad in connection with Jogta P.S. Case No.27 of 2019 corresponding to G.R. No.935 of 2020 whereby and whereunder the learned Chief Judicial Magistrate, Dhanbad has taken cognizance for the offence punishable under Section 498A read with 34 of the Indian Penal Code as well as the entire criminal proceeding arising out of Jogta P.S. Case No.27 of 2019 corresponding to G.R. Case No.935 of 2020, is quashed and set aside.

13. In the result, this Cr.M.P., stands allowed.

14. In view of disposal of the instant Cr.M.P., the interim relief granted vide order dated 02.12.2022, is vacated.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 24th of November, 2025
AFR/ Abhiraj

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