

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.3466 of 2024

1. Ankit Anubhav, aged about 40 years, son of Shri Anil Kumar, residing at House No.1, Saket Nagar West, Hinoo, Doranda, P.O. & P.S. - Doranda, Town and District- Ranchi.
2. Dharmendra Kumar Mishra, aged about 44 years, son of Shri Upendra Kumar Mishra, resident of Village- Purshotampur, P.O. & P.S.- Ranjiganj, District- Gaya (Bihar).
3. Rajiv Kumar, aged about 46 years, son of Late Muneshwar Prasad, resident of Mangal Vihar Colony, Near Jagrani School, Tiril Road, Kokar, Bariatu, P.O. & P.S.- Bariatu, District- Ranchi.

... Petitioners

Versus

1. The State of Jharkhand
2. Satish Verma, son of Late Balmukund Verma, resident of Village- Katiya, P.O.- Parasbad, P.S.- Jainagar, District- Koderma.

... Opposite Parties

For the Petitioners : Mr. Manoj Tandon, Advocate
Mr. Siddharth Ranjan, Advocate
Ms. Neha Bhardwaj, Advocate
Mr. Karamjit Singh Chabra, Advocate
For the State : Mr. Pankaj Kumar, P.P.
For the O.P. No.2 : None

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- Heard the parties.

2. Though notice has been validly served upon the opposite party No.2 yet no one turns up on behalf of the opposite party No.2 in spite of repeated calls.

3. 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/set aside the entire criminal proceeding initiated against the petitioner including the order taking cognizance dated 14.07.2016 passed by the learned Sub-Divisional Judicial Magistrate, Koderma in connection with Jainagar P.S. Case no. 72 of 2016 corresponding to G.R. Case No. 441 of 2016, now pending in the court of the learned Sub-Divisional Judicial Magistrate, Koderma.

4. The brief fact of the case is that the informant-complainant-opposite party No.2 filed the Complaint Case No.306 of 2016 in the court of the learned Judicial Magistrate-1st Class, Koderma which was referred to Police under Section 156(3) of the Code of Criminal Procedure; basing upon which, Jainagar P.S. Case No.72 of 2016 was registered by police. The allegation made against the petitioners is that the petitioners in criminal conspiracy with each other being the employees of Mahindra & Mahindra Company Limited, cheated the complainant-opposite party No.2 by deceiving him and by inducing him to part with the value of Tata Sumo Gold GX vehicle though, in fact, they handed over a Tata Sumo Gold EX vehicle to the complainant-opposite party No.2 and the price of Tata Sumo Gold GX is about one lakh rupees more than that of the Tata Sumo Gold EX vehicle. For this purpose, the petitioners created forged documents, falsifying the accounts of Mahindra & Mahindra Company Limited while working as

clerk, officer and servant of that company, they used as genuine documents which they knew to be forged, that too fraudulently and dishonestly, with intent to cause damage and injury to the complainant-opposite party No.2, defaced and attempted to destroy the documents and committed mischief in respect of the forged documents used as genuine and committed forgery for the purpose of cheating.

5. On the basis of the forged bills, huge amount of money was taken from the complainant-opposite party No.2 and the petitioners also criminally intimidated the informant at his shop situated in his house. Police after investigation of the said Jainagar P.S. Case No.72 of 2016, submitted charge sheet against the petitioners for having committed the offences punishable under Sections 408, 420, 466, 441, 474 and 477A of the Indian Penal Code and on the basis of the same, the learned Sub-Divisional Judicial Magistrate, Koderma has taken cognizance of the said offences against the petitioners.

6. Learned counsel for the petitioners submits that the allegation against the petitioners is false. The complainant has been granted loan by Mahindra & Mahindra Financial Services Limited. The complaint though is not supported by any affidavit but the same was referred to police under Section 156(3) of the Code of Criminal Procedure which is not in accordance with law in view of the judgment of the Hon'ble Supreme Court of India in the case of **Priyanka Srivastava & Another vs. State of Uttar Pradesh & Others** reported in (2015) 6 SCC 287 as in para-31 thereof, it has been laid down by the Hon'ble Supreme Court of India that there has to be prior applications under Sections 154(1) and 154(3) of the Code of Criminal Procedure while filing a petition under

Section 156(3) of the Code of Criminal Procedure. In this respect, the learned counsel for the petitioners relies upon the judgment of the Hon'ble Supreme Court of India in the case of **Babu Venkatesh & Others vs. State of Karnataka & Another** reported in (2022) 5 SCC 639 and submits that in that case also, the Hon'ble Supreme Court of India has approbated its judgment in the case of **Priyanka Srivastava & Another vs. State of Uttar Pradesh & Others (supra)** by observing in para-24 of the judgment that in **Priyanka Srivastava & Another vs. State of Uttar Pradesh & Others (supra)**, it has been held that the stage has come where applications under Section 156(3) of the Code of Criminal Procedure are to be supported by an affidavit duly sworn by the complainant who seeks the invocation of the jurisdiction of the Magistrate.

7. Learned counsel for the petitioners next submits that no offence in respect of which the cognizance has been taken by the learned Sub-Divisional Judicial Magistrate, Koderma is made out, even if the entire allegations made against the petitioners are considered to be true in their entirety. It is then submitted that the petitioner No.1 is posted at Ranchi. The petitioner No.1 controlled the entire State of Jharkhand, so, it is not expected of the petitioner No.1 to visit each and every local branch of the office and they have no connection with the concerned local office. It is then submitted that the allegations made in the complaint are absurd. The criminal proceeding is manifestly attempted with *mala fide* intention and the complaint has maliciously been instituted. The entire criminal proceeding has been quashed against the co-accused Abhishek Kumar in Cr.M.P. No.2037 of 2016 vide the

judgment dated 22.01.2024 passed by a Co-ordinate Bench of this Court consequent upon the admission made regarding the said co-accused namely Abhishek Kumar that he was posted as Regional Accountant at Ranchi and the vehicle was financed by Branch Office, Koderma and as per the Annexure-4 of that case, it was accepted that the document was of Tata Motors and not by the said company as alleged and as the petitioner No.1 was posted at Ranchi and he was not looking after day-to-day affairs of the company in Koderma, hence, the Co-ordinate Bench of this Court quashed the entire criminal proceeding against the co-accused namely Abhishek Kumar, while passing an express order that it does not interfere with the proceeding so far as these petitioners are concerned and the learned trial court was ordered to proceed against these petitioners in accordance with law. Learned counsel for the petitioners further submits that the allegation against the petitioners stands in the same footing as those of the co-accused namely Abhishek Kumar. Hence, on the principle of parity also, the entire criminal proceeding initiated against the petitioners including the order taking cognizance dated 14.07.2016 passed by the learned Sub-Divisional Judicial Magistrate, Koderma in connection with Jainagar P.S. Case no. 72 of 2016 corresponding to G.R. Case No. 441 of 2016, be quashed and set aside. Hence, it is submitted that the prayer as prayed for in this Criminal Miscellaneous Petition be allowed.

8. Learned Public Prosecutor appearing for the State on the other hand vehemently opposes the prayer of the petitioners and submits that by now, it is a settled principle of law that the observations in the case of **Priyanka Srivastava & Another vs. State of Uttar Pradesh & Others**

(supra) has been made in the facts of the said case by way of abundant caution to see that the frivolous complaints are avoided. It is next submitted that unlike the case of **Abhishek Kumar vs. The State of Jharkhand & Another** passed in Cr.M.P. No.2037 of 2016 dated 22.01.2024, herein, there is no admission made by the prosecution that the petitioners had no role in the Koderma Branch of the company concerned. It is then submitted that in view of the direct and specific allegation against the petitioners that they have committed forgery of the documents, cheating and used forged documents as genuine at Koderma; for the limited purpose of exercise of the power under Section 482 of the Code of Criminal Procedure at this stage, the same is to be treated as true. It is then submitted that of course, it is open for the petitioners to raise their plea as a defence during the full-dress trial of the case but certainly, the same cannot be a ground to quash the entire criminal proceeding at this nascent stage. It is further submitted that the case of **Priyanka Srivastava & Another vs. State of Uttar Pradesh & Others (supra)** deals with the petition filed under Section 156(3) of the Code of Criminal Procedure but in this case, there is no material available in the record to suggest that the informant-complainant himself has filed any application under Section 156(3) of the Code of Criminal Procedure. So, in the absence of any petition under Section 156(3) of the Code of Criminal Procedure having been filed by the complainant-informant, no fault can be found with the prosecution, more so, at the belated stage when after the investigation, the allegation against the petitioners was found to be true and charge sheet has already been submitted and cognizance of the offences has already been

taken. 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 records, it is pertinent to mention here that in the case of **Anurag Bhatnagar & Another v. State (NCT of Delhi) & Another** reported in **2025 SCC OnLine SC 1514**, para-32 and 33 of which reads as under:-

"32. In the facts and circumstances of the case, as the informant had directly moved the Magistrate under Section 156(3) of the CrPC without exhausting his statutory remedies, the Magistrate could have avoided taking action on the said application and could have refused to direct for the registration of the FIR. However, as entertaining an application directly by the Magistrate is a mere procedural irregularity and since the Magistrate in a given circumstance is otherwise empowered to pass such an order, the action of the Magistrate may not be illegal or without jurisdiction.

33. To sum up, the Magistrate ought not to ordinarily entertain an application under Section 156(3) CrPC directly unless the informant has availed and exhausted his remedies provided under Section 154(3) CrPC, but as the Magistrate is otherwise competent under Section 156(3) CrPC to direct the registration of an FIR if the allegations in the application/complaint discloses the commission of a cognizable offence, we are of the opinion that the order so passed by the Magistrate would not be without jurisdiction and would not stand vitiated on this count." (Emphasis supplied)

the Hon'ble Supreme Court of India has summed up the matter by observing that the Magistrate ought not to ordinarily entertain an application under Section 156(3) of the Code of Criminal Procedure directly unless the informant availed and exhausted the remedies provided under Section 154(3) of the Code of Criminal Procedure but as the Magistrate is otherwise competent under Section 156(3) of the Code of Criminal Procedure to direct the registration of an FIR if the allegation in the application/complaint discloses the commission of a

cognizable offence, the order so passed by the Magistrate would not be without jurisdiction and would not stand vitiated on this account.

10. The Hon'ble Supreme Court of India in the case of **M/s SAS Infratech Pvt. Ltd. Vs. The State of Telangana & Another** in Criminal Appeal No.2574 of 2024 dated 14.05.2024 passed in Special Leave Petition (Crl.) No.2123 of 2024 paragraph-9 of which reads as under:-

"9. The learned counsel for Respondent No.2 has placed reliance of the decision of this Court in "Priyanka Srivastava And Another Versus State of Uttar Pradesh And Others" (2015) 6 SCC 287 to submit that the complaint filed by the appellant – complainant was not supported by an affidavit. In our opinion, the said observation has been made in the said case by way of abundant caution to see that frivolous complaints are avoided."

has opined that the observations made in the case of **Priyanka Srivastava & Another vs. State of Uttar Pradesh & Others (supra)** has been made in the said case by way of abundant caution to see that frivolous complaints are avoided and in that case though the complaint was not supported by affidavit still the Hon'ble Supreme Court of India held that the Magistrate after being *prima facie* satisfied having exercised its discretion by directing the investigation under Section 156(3) of the Code of Criminal Procedure, such order of the Magistrate was just legal and proper and set aside the order of the High Court, setting aside such order of the Magistrate.

11. Now coming to the facts of the case, as it is apparent that in this case, the complainant-informant never filed any application under Section 156(3) of the Code of Criminal Procedure but the learned Sub-Divisional Judicial Magistrate, Koderma in exercise of its power vested upon it, *suo moto* has sent the complaint for registration of the FIR under

Section 156(3) of the Code of Criminal Procedure. So, on this sole ground that the complainant was not supported by affidavit or for that matter the provisions of section 154 (1) or (3) of the code of criminal procedure has not been complied with, this Court is of the considered view that there is no justifiable reason to quash the entire criminal proceeding including the order taking cognizance dated 14.07.2016 passed by the learned Sub-Divisional Judicial Magistrate, Koderma in connection with Jainagar P.S. Case no. 72 of 2016 corresponding to G.R. Case No. 441 of 2016; more so, when the investigation of the case is already over and in the investigation of the case, the allegations against the petitioners was found to be true and charge sheet has been submitted and thereafter, cognizance has been taken of the offences. Thus, this Court is of the considered view that there is no merit in the contention of the petitioners that the entire criminal proceeding including the order taking cognizance dated 14.07.2016 passed by the learned Sub-Divisional Judicial Magistrate, Koderma in connection with Jainagar P.S. Case no. 72 of 2016 corresponding to G.R. Case No. 441 of 2016, is to be quashed only because the complaint was not supported by the affidavit.

12. So for as the judgment of the Co-ordinate Bench of this Court in respect of the co-accused in the case of **Abhishek Kumar vs. The State of Jharkhand & Another** passed in Cr.M.P. No.2037 of 2016 dated 22.01.2024 is concerned, in that case there was an admission made by the prosecution as has been observed in para-6 of that judgment, that the petitioner was posted as Regional Accountant at Ranchi but unlike that case, in this case, there is no admission of that nature made by the

prosecution rather the materials available in the records goes to show that there is direct and specific allegation against the petitioners of committing the offence alleged at the office of Mahindra & Mahindra Company situated at Jhumari Telaiya and at the house of the complainant.

13. Under such circumstances, keeping in view the specific observation of the Co-ordinate Bench of this Court in that judgment passed in Cr.M.P. No.2037 of 2016 dated 22.01.2024 that the learned court will proceed in accordance with law against the other accused persons of the case who are the petitioners of this case; this Court is of the considered view that the judgment of the Co-ordinate Bench of this Court passed in Cr.M.P. No.2037 of 2016 is of no avail to the petitioners of this case.

14. So far as the contention of the petitioners that even if the entire allegations are considered to be true in their entirety, no offence in respect of which the cognizance has been taken by the learned Sub-Divisional Judicial Magistrate, Koderma, is made out is concerned, the said contention of the petitioners is also devoid of any merit as there is direct and specific allegation against the petitioners of committing forgery by creating false document and using the forged document as genuine document being the clerk, officer and servant willfully and with intent to defraud, altered and falsified the books of accounts and other paper belonging to their employer and further, there is also direct and specific allegation against the petitioners of cheating by deceiving the complainant to believe that he has been supplied with a Tata Sumo Gold GX vehicle though, in fact, he was supplied with a Tata Sumo

Gold EX vehicle, the value of which is at least one lakh rupees less than that of the Tata Sumo Gold GX vehicle and inducing the complainant who was so deceived to part with Rs.1,00,000/- in excess, to the price of the vehicle which was supplied to the complainant and as there is also direct and specific allegation against the petitioners of trespassing to the house of the informant-complainant, intimidated and annoyed the complainant. So, this Court is of the considered view that the allegations made against the petitioners, if are considered to be true in their entirety, are sufficient to constitute the offences in respect of which the cognizance has been taken by the learned Sub-Divisional Judicial Magistrate, Koderma and in view of the nature of allegation made against the petitioners, this Court do not find any absurdity in the same.

15. 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 petitioners made in this Criminal Miscellaneous Petition is to be acceded in exercise of the power under Section 482 of the Code of Criminal Procedure.

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

17. In view of the disposal of this Criminal Miscellaneous Petition, the interim relief granted earlier vide order dated 24.02.2025 is vacated.

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

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 25th of November, 2025
AFR/ Saroj

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