

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.4185 of 2022

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1. Ram Bharosa Singh, aged about 66 years, son of Ram Lakhan Singh;
 2. Saurab Kumar @ Sourav Kumar Singh, aged about 36 years, son of Ram Bharosa Singh;
 3. Gaurav Kumar @ Gourab Kumar Singh, aged about 28 years, son of Ram Bharosa Singh;

All are Resident of Village Madhurapur, Near Barauni Junction, P.O.- Madhurapur, P.S.- Teghara, District- Begusarai, State- Bihar. ... Petitioners

Versus

1. The State of Jharkhand
2. Vakil Choudhary, son of Kamleshwari Choudhary, resident of Putkee, P.O.- Kusunda, P.S.- Putkee, District- Dhanbad

... Opposite Parties

For the Petitioners	: Mr. Rohan Mazumdar, Advocate
For the State	: Mr. Vineet Kr. Vashistha, Spl.P.P.
For the O.P. No.2	: Mr. Manoj Kr. Sinha, 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, 1973 with a prayer to quash the entire criminal proceeding including the order dated 07.06.2021 passed in connection with C.P. Case No.2097 of 2020 by which the learned Judicial Magistrate-1st Class, Dhanbad has found *prima facie* case for the offences punishable under Sections 323/504 of the Indian Penal Code against the petitioners.

3. The allegation against the petitioners is that on 04.11.2020, the petitioners came to the house of the complainant and caused hurt to the inmates of the house of the complainant including his wife with lathi and danda and with slaps and fists blows. The petitioner No.1 committed theft of gold chain from the neck of the wife of the complainant, the petitioner No.3 committed theft of Rs.65,000/- kept on the table and the committed mischief by vandalizing the house of the complainant and demanded Rs.8,00,000/-. On the basis of the complaint, statement on solemn affirmation of the complainant and the statement of the enquiry witnesses, the learned Magistrate has found *prima facie* case for the said offences.

4. Learned counsel for the petitioners submits that the allegation against the petitioners is false. It is next submitted that this case is a counter-case to the case instituted by the daughter of the petitioner against the complainant, his son and his wife. Hence, it is submitted that the prayer, as prayed for in the instant Cr.M.P., be allowed.

5. Learned Spl.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 submits that the enmity is always a double-edged weapon. It is further submitted that only because there was enmity between the parties that does not confer any right upon the petitioners to come to the house of the complainant and to commit the offences as alleged. It is further submitted that if the offences alleged against the petitioners are considered to be true in their entirety then both the offences punishable under Sections 323 and 504 of the Indian Penal Code are made out against the petitioners as besides causing hurt to the inmates to the house of the

complainant including his wife, the petitioners have intentionally insulted the inmates of the house of the complainant to provoke them to commit breach of peace and other offences. Hence, it is submitted that this Cr.M.P., being without any merit, be dismissed.

6. 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 it is a settled principle of law as has been held by the Hon'ble Supreme Court of India in the case of **Monica Kumar (Dr.) & Another vs. State of Uttar Pradesh & Others** reported in (2008) 8 SCC 781 that a genuine prosecution cannot be stifled at the nascent stage in exercise of the power under Section 482 of Cr.P.C. 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, has laid down the settled principle of law that the defence of the petitioner and veracity of the evidence put forth by the accused, 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.

7. Now, coming to the facts of the case, there is direct and specific allegation against the petitioners of being in furtherance of common intention with the co-accused persons, causing hurt to the inmates of the house of the complainant including his wife and intentionally insulting them to cause breach of peace and other offences. Under such circumstances, this Court is of the considered view that if the entire allegations made against the petitioners are considered to be true in their entirety, then the offences in respect of which the learned Magistrate has found *prima facie* case, is made out against the petitioners. Therefore, there is no justifiable reason to quash the entire criminal

proceeding including the order dated 07.06.2021 passed in connection with C.P. Case No.2097 of 2020, as prayed for by the petitioners in this Cr.M.P.; in exercise of the power under section 482 of the Code of Criminal Procedure.

8. Accordingly, this Cr.M.P., being without any merit, is dismissed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 07th of July, 2025
AFR/ Animesh