

(2025) 10 JH CK 1331

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 1909 Of 2025

Punam Kumari

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 29-10-2025

Acts Referred:

Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 528
Code of Criminal Procedure, 1973 — Section 162, 482
Indian Penal Code, 1860 — Section 323, 504, 506

Citation : (2025) 10 JH CK 1331

Hon'ble Judges : Anil Kumar Choudhary, J

Bench : Single Bench

Advocate : Saurav Jha, Divya Choudhary, Vishwanath Roy, Abhinay Kumar,
Tamal Choudhary, Rishi Ranjan Vats

Final Decision : Disposed Of

Judgement

Anil Kumar Choudhary, J

1. Heard the parties.

2. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 528 of the B.N.S.S., 2023 with the prayer to quash the entire criminal proceedings and the First Information Report in connection with Lower Bazar P.S. Case No.224 of 2021 corresponding to G.R. Case No.614 of 2025 wherein the learned Judicial Magistrate-1st Class- XXVIII, Ranchi vide order dated 21.02.2025 has taken cognizance of the offences punishable under Sections 323, 504, 506 of the Indian Penal Code and passed summoning order against the petitioners.

3. The brief fact of the case is that police after investigation of Lower Bazar P.S. Case No.224 of 2021, submitted charge sheet inter alia against the petitioners for committing the said offences and on the basis of the same vide impugned order dated 21.02.2025, the learned Judicial Magistrate-1st Class- XXVIII,

Ranchi has taken cognizance of the offences and passed summoning order against the petitioners.

4. Learned counsel for the petitioners submits that the petitioner No.2 has received summons from the court of Judicial Magistrate, Ranchi and the next date is fixed to 10.11.2025 for appearance of the petitioners. It is next submitted that the allegations against the petitioners are false. This is a counter-case of Lower Bazar P.S. Case No.222 of 2021. It is then submitted that the allegations against the petitioners are malicious in nature and this is a malicious prosecution against the petitioners. It is also submitted that the charge sheet was submitted only in the year 2025 though the case was registered in the year 2021.

5. Learned counsel for the petitioners relies upon the judgment of the Hon'ble Supreme Court of India in the case of Vakil Prasad Singh Vs. State of Bihar reported in (2009) 3 SCC 355 and submits that the right to speedy trial in all criminal prosecutions is an inalienable right under Article 21 of the Constitution.

6. Relying upon the judgment of the Hon'ble Supreme Court of India in the case of State of Haryana & Others Vs. Bhajan Lal & Others reported in 1992 Supp (1) SCC 335, learned counsel for the petitioners submits that in para-102(7) of which, it has been held that the power under Section 482 of the Code of Criminal Procedure which corresponds to under Section 528 of the B.N.S.S., 2023 can be exercised where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge. In this respect learned counsel for the petitioners further relies upon the judgment of the Hon'ble Supreme Court of India in the case of Mahindra & Mahindra Financial Services Limited & Another vs. Rajiv Dubey reported in (2009) 1 SCC 706. Hence, it is submitted that the prayer as prayed for in this Criminal Miscellaneous Petition be allowed.

7. 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 petitioners made in this Criminal Miscellaneous Petition and submit that it is a settled principle of law that a case and a counter-case can go together. It is next submitted that whether a prosecution is a malicious or not can be determined only by the trial of the case. It is also submitted that the grounds upon which the petitioners seek quashing of the entire criminal proceedings are at best the defence of the petitioners, which can only be taken during the trial of the case but certainly the same is not a ground to quash the entire criminal proceedings. Hence, it is submitted that this Criminal Miscellaneous Petition, being without any merit, be dismissed.

8. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, this Court finds that the undisputed fact remains that there was a case and counter-case in respect of the same occurrence and police after investigation of the case, found the allegations

against the petitioners of having committed the offences punishable under Section 323, 504 and 506 of the Indian Penal Code. It is not even the case of the petitioners that if the allegations made against them are considered to be true; the same will not constitute the offences in respect of which the charge sheet has been submitted and basing upon which, the learned Judicial Magistrate-1st Class- XXVIII, Ranchi has taken cognizance.

9. It is a settled principle of law as has been held by the Hon'ble Supreme Court of India in the case of T.T. Antony vs. State of Kerela & Others reported in (2006) 6 SCC 181 that if the second or successive FIR is a counter-case in connection with the same or connected cognizable offences, the same is not hit by the provisions of Section 162 of the Code of Criminal Procedure and both the case and the counter-case are to be investigated further. Hence, this Court do not find any justifiable reason to quash the entire criminal proceedings only because the FIR of Lower Bazar P.S. Case No.224 of 2021 is a counter-case of Lower Bazar P.S. Case No.222 of 2021.

10. It is also a settled principle of law as has been held by the Hon'ble Supreme Court of India in the case of Central Bureau of Investigation vs. Aryan Singh & Others reported in 2023 SCC OnLine SC 379, para-11 of which reads as under:-

11. One another reason pointed by the High Court is that the initiation of the criminal proceedings/proceedings is malicious. At this stage, it is required to be noted that the investigation was handed over to the CBI pursuant to the directions issued by the High Court. That thereafter, on conclusion of the investigation, the accused persons have been chargesheeted. Therefore, the High Court has erred in observing at this stage that the initiation of the criminal proceedings/proceedings is malicious. Whether the criminal proceedings was/were malicious or not, is not required to be considered at this stage. The same is required to be considered at the conclusion of the trial. In any case, at this stage, what is required to be considered is a prima facie case and the material collected during the course of the investigation, which warranted the accused to be tried." (Emphasis supplied)

that whether the criminal proceedings were malicious is not required to be considered at the initial stage and the same is required to be considered at the time of conclusion of the trial.

11. The contention of the petitioners that the allegations against the petitioners are false, can only be determined after the full-dress trial of the case. It is settled principle of law that the defence of the accused person of the case or the veracity of the evidence put forth by the accused cannot be considered by the High Court in exercise of its jurisdiction under Section 482 of the Code of Criminal Procedure, 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 & Others reported in 2004 2 Supreme 501.

12. So far as the contention of the petitioners that there was a delay in

submission of charge sheet is concerned, it is a settled principle of law that mere delay in investigation of the case is certainly not a ground to quash the entire criminal proceeding; more so, when the charge sheet has already been submitted. The learned Judicial Magistrate-1st Class- XXVIII, Ranchi has taken cognizance of the offences for which the charge sheet was submitted and though the petitioner was aware that the charge sheet has been submitted and the cognizance has been taken against them, they themselves have avoided appearing before the trial court for more than six months without any plausible reason.

13. Under such circumstances, this Court is of the considered view that there is absolutely no merit in this Criminal Miscellaneous Petition filed invoking the jurisdiction of this Court under Section 528 of the B.N.S.S., 2023.

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

15. In view of disposal of this Criminal Miscellaneous Petition, Interlocutory Application, if any, is disposed of being infructuous.