

**IN THE HIGH COURT OF JHARKHAND AT RANCHI  
Cr.M.P. No.715 of 2024**

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1. Rajesh Manjhi, aged about 32 years, S/o Dilip Manjhi,
  2. Rakesh Manjhi, aged about 30 years, S/o Dilip Manjhi,
- Both are residents of Village-Mahesh Bathan, P.O. + P.S.-  
Raneshwar, District-Dumka.

... Petitioners

*Versus*

1. The State of Jharkhand
2. Shivani Manjhi, W/o Ganesh Chandra Manjhi, Resident of  
Village-Mahesh Bathan, P.O. + P.S.-Raneshwar, District-Dumka.

... Opposite Parties

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For the Petitioners	: Mr. Ranjit Kumar, Advocate
	: Ms. Kabisha Goenka, Advocate
For the State	: Mr. Pankaj Kumar, P.P.
For the O.P. No.2	: Mr. Piyush Kr. Roy, Advocate
	: Mr. Ayush Kumar, Advocate

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**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 entire criminal proceeding in connection with Raneshwar P.S. Case No.38 of 2022 corresponding to G.R. Case No.227 of 2023 including the order taking cognizance dated 18.03.2023 passed by learned Judicial Magistrate-1<sup>st</sup> Class, Dumka whereby and where under the learned Judicial Magistrate-1<sup>st</sup> Class, Dumka has taken cognizance of the offences punishable under

Sections 341, 325, 354, 504/34 of the Indian Penal Code against the petitioners on the basis of the charge sheet submitted by the police.

3. The allegation against the petitioners is that the petitioners in furtherance of common intention with the co-accused persons entered into the shop of the informant lady, dragged her outside her shop, beat her up with heavy stone, causing grievous hurt, outraged her modesty, wrongfully restrained her and intentionally insulted her with intent to provoke her to commit breach of peace.

4. On the basis of the written report submitted by the informant, police registered Raneshwar P.S. Case No.38 of 2022 and took up investigation of the case and after completion of the investigation submitted charge sheet against the petitioners for having committed the said offences and on the basis of the said charge sheet, the learned Judicial Magistrate-1<sup>st</sup> Class, Dumka has taken cognizance of the offences as already indicated above in this judgement and passed the summoning order.

5. Learned counsel for the petitioners submit that the allegation against the petitioners is false and there is land dispute between the parties. It is next submitted that the injuries sustained are simple in nature, hence, it is lastly submitted that the prayer as prayed for in this Cr.M.P., be allowed.

6. 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 petitioners made in the instant Cr.M.P and submit that it is a settled

principle of law if a case is made out on the basis of the police report, the Magistrate, at the time of taking cognizance cannot add or subtract a section because the same would be permissible by the trial court only at the time of framing of charge. It is next submitted that the undisputed facts remains that the petitioners caused hurt to the informant by beating her with heavy stone on her head besides beating her all over her body with kicks and fists by which she sustained injury and in the process outraged her modesty, wrongfully restrained her and intentionally insulted her to provoke breach of peace and police after investigation of the case found the allegations to be true. It is lastly submitted that this Cr.M.P., being without any merit, be dismissed.

7. 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 **State of Gujarat vs. Girish Radhakrishnan Varde** reported in (2014) 3 SCC 659 paragraph-15 of which reads as under:-

*"15. The question, therefore, emerges as to whether the complainant/informant/prosecution would be precluded from seeking a remedy if the investigating authorities have failed in their duty by not including all the sections of IPC on which offence can be held to have been made out in spite of the facts disclosed in the FIR. The answer obviously has to be in the negative as the prosecution cannot be allowed to suffer prejudice by ignoring exclusion of the sections which constitute the offence if the investigating authorities for any reason whatsoever have failed to include all the offences into the charge-sheet based on the FIR on which investigation had been conducted. But then a further question arises as to whether this lacunae can be allowed to be filled in by the*

*Magistrate before whom the matter comes up for taking cognizance after submission of the charge-sheet and as already stated, the Magistrate in a case which is based on a police report cannot add or subtract sections at the time of taking cognizance as the same would be permissible by the trial court only at the time of framing of charge under Sections 216, 218 or under Section 228 CrPC as the case may be which means that after submission of the charge-sheet it will be open for the prosecution to contend before the appropriate trial court at the stage of framing of charge to establish that on the given state of facts the appropriate sections which according to the prosecution should be framed can be allowed to be framed. Simultaneously, the accused also has the liberty at this stage to submit whether the charge under a particular provision should be framed or not and this is the appropriate forum in a case based on police report to determine whether the charge can be framed and a particular section can be added or removed depending upon the material collected during investigation as also the facts disclosed in the FIR and the charge-sheet." (Emphasis supplied)*

wherein the Hon'ble Supreme Court of India has categorically laid down the law that if the investigating authorities for any reason whatsoever have failed to include all the offences into the charge-sheet based on the F.I.R. on which investigation had been conducted, the Magistrate before whom the matter comes up for taking cognizance after submission of the charge-sheet, cannot fill up the lacunae and the Magistrate in a case which is based on a police report cannot add or subtract sections at the time of taking cognizance; as the same would be permissible for the trial court only at the time of framing the charge.

8. Now coming to the facts of the case, there is direct and specific allegations against the petitioners that the petitioners in furtherance of common intention with the co-accused persons caused hurt to the informant, outraged her modesty and in the process wrongfully restrained her as well as intentionally insulted her provoking her to

commit breach of peace. The allegation against the petitioners was found to be true during the investigation of the case and basing upon the charge sheet submitted by police, the learned Judicial Magistrate-1<sup>st</sup> Class, Dumka has taken cognizance. If the allegations made against the petitioner are considered to be true in their entirety then all the offences in respect of which cognizance has been taken by the learned that judicial Magistrate, is in fact made out. Since the petitioners are not appearing before the trial Court so charge has not yet been framed for over two years even though they know pretty well that their attendance is required before the trial court, hence the charge could not be framed.

9. Under such circumstances, this court is of the considered view that there is no justifiable reason to accede to the prayer made by the petitioners in this Cr.M.P. in exercise of the power under Section 482 of Cr.P.C.

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

**(Anil Kumar Choudhary, J.)**

High Court of Jharkhand, Ranchi  
Dated the 18<sup>th</sup> of March, 2026  
AFR/ Abhiraj

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