

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.3382 of 2025

Gaurav Kumar Singh, aged about 39 years, Son of Narwadeswar Singh, Resident of Village- Gongo, P.O.- Udaypura, P.S.- Pipratand, Dist.- Palamau.

... Petitioner

Versus

1. The State of Jharkhand
2. Santosh Kumar Pandey, Son of Ram Chandra Pandey, Resident of Parsuram Nagar, Panki Road, Baratola, P.O. & P.S.- Medninagar, Dist.- Palamau.

... Opposite Parties

For the Petitioner : Mr. Binod Kumar, Advocate
Mrs. Nanda Kumari, Advocate
For the State : Mr. Manoj Kr. Mishra, Addl.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 validly been served upon the opposite party No.2-complainant yet no one turns up on behalf of the opposite party No.2-complainant in spite of repeated calls.
3. 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 order dated 09.05.2025 passed by the learned Judicial Magistrate-1st Class, Palamau at Daltonganj in connection with Complaint Case No. 1354 of 2020 involving the offence punishable

under Section 138 of the Negotiable Instruments Act whereby and where under the learned court below allowed the petition filed by the complainant and recalled the earlier order dated 16.03.2024 by which the evidence of the complainant had been closed.

4. The brief fact of the case is that the petitioner is an accused of Complaint Case No. 1354 of 2020 involving the offence punishable under Section 138 of the Negotiable Instruments Act. The evidence of the complainant was closed without examination of the witnesses vide order dated 16.03.2024, hence, the complainant filed a petition dated 18.05.2024 for recalling the said order and to allow the complainant to examine his witnesses. The said petition was taken up on 09.05.2025 by the learned Judicial Magistrate-1st Class, Palamau at Daltonganj in Complaint Case No. 1354 of 2020 and the said prayer was allow subject to payment of cost of Rs.2,000/- by the complainant.

5. Learned counsel for the petitioner submits that once the evidence of the prosecution is closed, the same could not be recorded except under exceptional circumstances. Learned counsel for the petitioner relies upon the judgment of the Hon'ble Supreme Court of India in the case of **K.K. Velusamy vs. N. Palanisamy** reported in **(2011) 11 SCC 275** and submits that therein, in the facts of that case which involved the original civil suit, the Hon'ble Supreme Court of India has held that in the absence of any provision providing for reopening of evidence or recall of any witness for further examination or cross-examination, for purposes other than securing clarification

required by the court, the inherent power under Section 151 of the Code of Civil Procedure subject to its limitations, can be invoked in appropriate cases to reopen the evidence and/or recall witnesses for further examination. Hence, it is submitted that the prayer as prayed for in this Criminal Miscellaneous Petition be allowed.

6. Learned Addl.P.P. appearing for the State on the other hand vehemently oppose the prayer of the petitioner made in this Criminal Miscellaneous Petition and submits that the submissions made by the petitioner is misconceived. This being a criminal proceeding, the procedural law applicable is the Code of Criminal Procedure and not the Code of Civil Procedure. It is next submitted that there is specific procedure in the Code of Criminal Procedure vesting power upon the trial court for permitting examination of the witnesses, if their evidence is required for the just decisions of the case; even by reopening the evidence of the complainant. It is then submitted that the undisputed fact remains that the witnesses who have been permitted to be examined by the learned Judicial Magistrate, are the witnesses whose evidence is required for the just decision of the case. It is lastly submitted that no illegality has been committed by the learned Judicial Magistrate-1st Class, Palamau at Daltonganj in allowing the petition. Hence, it is submitted that this Criminal Miscellaneous Petition, being without any merit, be dismissed.

7. Having heard the rival submission made at the Bar and after carefully going through the materials available in the record, this Court

finds that the undisputed fact remains that the evidence of the witnesses sought to be examined by the complainant, is required for the just decision of the case.

8. Under such circumstances, the examination of such witnesses having been allowed by the learned Judicial Magistrate-1st Class, Palamau at Daltonganj by recalling its earlier order by which it closed the evidence of the prosecution, this Court is of the considered view that this Court do not find any justifiable reason to quash the order dated 09.05.2025 passed by the learned Judicial Magistrate-1st Class, Palamau at Daltonganj in connection with Complaint Case No. 1354 of 2020, in exercise of its power under Section 528 of the B.N.S.S., 2023.

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

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 21th of January, 2026
AFR/ Saroj

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