

**IN THE HIGH COURT OF JHARKHAND AT RANCHI  
Cr.M.P. No.4427 of 2022**

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1. Sanjay Kumar Gupta aged 42 years S/O Shri Moti Shah, resident of Village- Allampur, P.O.- Allampur, P.S.- Baddi, Shiv Sagar, Dist- Rohtash, Bihar.
  2. Moti Shah, Son of Late Bikau Shah, aged about 64 years, resident of Vilage- Allampur, P.O.- Allampur, P.S.- Baddi, Shiv Sagar, Dist- Rohtash, Bihar.

... Petitioners

***Versus***

1. The State of Jharkhand
2. Chandani Devi aged 28 years, W/O Late Dhananjay Kumar R/O Alampur, P.O.- Allampur, and P.S. - Baddi, Dist- Rohtas at present residing at Kund Mohalla Agrasen Colony, Ward No.7, (New ward 4) Daltonganj, P.S.- Daltonganj, Dist- Palamau, (Jharkhand).

... Opposite Parties

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For the Petitioner : Mr. Vinay Kumar, Advocate  
For the State : Mr. Shiv Shankar Kumar, Addl.P.P.  
For the O.P. No.2 : Md. Nazia Rashid, 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 with the prayer to quash and set aside the entire criminal proceeding including the order dated 27.06.2022 passed by the learned Judicial Magistrate-1<sup>st</sup> Class, Palamau in connection with Complaint Case No. 344 of 2020 whereby and where under the learned Judicial

Magistrate-1<sup>st</sup> Class, Palamau has found *prima facie* case against the petitioners for having committed the offences punishable under Sections 323, 504, 34 of the Indian Penal Code.

3. Learned counsel for the petitioners submits that charge has yet to be framed in this case.

4. The allegation against the petitioner is that the petitioner No.1 being the elder brother of the husband of the complainant and the petitioner No.2 being the father-in-law of the complainant, did *marpit* (beating) with her.

5. Learned counsel for the petitioners submits that even if the entire allegations made against the petitioners are considered to be true in their entirety, still the same is insufficient to constitute either the offence punishable under Section 323 of the Indian Penal Code or the offence punishable under Section 504 of the Indian Penal Code, 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 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 the materials available in the record are sufficient to constitute each of the offences in respect of which the learned Judicial Magistrate-1<sup>st</sup> Class, Palamau has found *prima facie* case against the petitioners. Hence, it is submitted that this Criminal Miscellaneous Petition, 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 observed by the Hon'ble Supreme Court of India in the case of **Abhishek Saxena vs. The State of Uttar Pradesh & Anr.** reported in **2023 INSC 1088** in Criminal Appeal No. 3628 of 2023 dated 28.11.2023, paragraph no.9 of which reads as under:-

*"9. As noted earlier, except the statement that 'they beat up me' by the complainant no material whatsoever is available on record in regard to the commission of the said offence. The incident allegedly occurred on 12.06.2016. In the recorded statement of the second respondent-complainant or in the counter affidavit filed by the first respondent there is not even a whisper that after the incident she went to a doctor or underwent any kind of treatment. Needless to say, that there is no statement – at least that injury report was prepared. In this context, it is also to be seen in respect of the incident, the FIR got registered only on 04.09.2016, that too much after the filing of petition No. 13/2016 by the appellant herein. Above all, as noted earlier, basic ingredients to constitute an offence under Section 323, IPC is lacking in the chargesheet."*

that the statement that 'they beat up me' by the complainant, in the absence of any material to suggest that the victim went to the doctor or underwent any kind of treatment is not sufficient to constitute the offence punishable under Section 323 of Indian Penal Code.

8. The essential ingredients to constitute the offence punishable under Section 323 of Indian Penal Code are as under:-

- (i) The accused voluntarily caused bodily pain, disease or infirmity to the victim;

- (ii) The accused did so with the intention of causing hurt or with the knowledge that he would thereby cause hurt to the victim.

9. Now coming to the facts of the case, there is absolutely no allegation against the petitioners that any bodily pain, disease or infirmity was caused to the victim. In the absence of that, this Court is of the considered view that even if the entire allegations made against the petitioners are considered to be true in their entirety, still the offence punishable under Section 323 of the Indian Penal Code is not made out.

10. So far as the offence punishable under Section 504 of the Indian Penal Code is concerned, the essential ingredients to constitute the said offence are as under: -

- (i) The accused intentionally insulted someone;
- (ii) He thereby intended to give him provocation;
- (iii) He knew that it was likely that such provocation was caused that the person to commit breach of peace or commit any other offence.

11. Now coming to the facts of the case, there is absolutely no allegation against the petitioners that they gave any provocation knowing, it was likely that such provocation would cause the victim to commit breach of peace or to commit any other offence. In the absence of these essential ingredients to constitute the offence punishable under Section 504 of the Indian Penal Code, this Court has no hesitation in holding that even if the entire allegations made against the petitioners are considered to be true in their entirety, still the offence punishable

under Section 504 of the Indian Penal Code is not made out against the petitioners.

12. In view of the discussions made above, as neither the offence punishable under Section 323 of the Indian Penal Code nor the offence punishable under Section 504 of the Indian Penal Code is made out against the petitioners; even if the entire allegations made against the petitioners are considered to be true in their entirety, hence, this Court is of the considered view that the continuation of the criminal proceeding against the petitioners will amount to abuse of process of law. Therefore, this is a fit case where the entire criminal proceeding including the order dated 27.06.2022 passed by the learned Judicial Magistrate-1<sup>st</sup> Class, Palamau in connection with Complaint Case No. 344 of 2020, be quashed and set aside against the petitioners named above.

13. Accordingly, the entire criminal proceeding including the order dated 27.06.2022 passed by the learned Judicial Magistrate-1<sup>st</sup> Class, Palamau in connection with Complaint Case No. 344 of 2020, is quashed and set aside against the petitioners named above.

14. In the result, this Criminal Miscellaneous Petition is allowed.

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

High Court of Jharkhand, Ranchi  
Dated the 05<sup>th</sup> of May, 2026  
AFR/ Saroj

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