

(2025) 10 JH CK 0041

Jharkhand HC

Case No: Criminal Miscellaneous Petition No. 770 of 2023

Amit Kumar Gope

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision: Oct. 14, 2025**Acts Referred:**

- Code of Criminal Procedure, 1973 — Section 482
- Indian Penal Code, 1860 — Section 34, 407, 408

Hon'ble Judges: Anil Kumar Choudhary, J**Bench:** Single Bench**Advocate:** Anjani Kumar, Vineet Kr. Vashistha, Abhijeet Kr. Singh, Harsh Chandra**Final Decision:** Dismissed

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 482 of Cr.P.C. with the prayer to quash the F.I.R. as well as the entire criminal proceeding in connection with Chaibasa Sadar P.S. Case No. 36 of 2022, now pending in the court of learned Chief Judicial Magistrate, West Singhbhum at Chaibasa.
3. Though, charge sheet has already been submitted against the petitioners and cognizance has been taken by the learned Magistrate, the petitioners have neither challenged the charge sheet nor the order taking cognizance.
4. The allegation against the petitioners is that the petitioners while employed by the informant were involved in embezzlement of stock of Rs.6,00,000/- from the godown of the informant. On the basis of the written report of the informant, police registered Chaibasa Sadar P.S. Case No. 36 of 2022 and took up investigation of the case. After completion of the investigation, police found the allegations against the petitioners to be true and on the basis of the materials available in different paragraphs of the case diary as mentioned in the charge sheet, was submitted on

25.09.2024 inter-alia against the petitioners for having committed the offences punishable under Section 407/408/34 of the Indian Penal Code.

5. It is submitted by the learned counsel for the petitioners that the petitioners that the allegations against the petitioners are false and the only allegation is against salesman of the informant namely Tapan Kumar Napit, who is the co-accused in this case. The petitioners are admittedly the ex-employees of the informant and the resignation of the petitioners have been accepted by the company of the informant. It is further submitted by the learned counsel for the petitioners that the petitioners during the time of their employment had no concern with the stock/logistics because of the nature of their work. Hence, it is submitted that the prayer as prayed for in this criminal miscellaneous petition be allowed.

6. The learned Special Public Prosecutor and the learned counsel for the opposite party no.2 on the other hand vehemently opposes the prayer as prayed for and submits that there is direct and specific allegation against the petitioners of having committed the offences punishable under Section 407/408/34 of the Indian Penal Code. It is next submitted that the said allegations against the petitioners were found to be true during the investigation of the case as mentioned in detail in different paragraphs of the case diary of which there is reference in para-16 of the charge sheet. It is then submitted that the petitioners have neither challenged the charge sheet nor questioned the cognizance order which has been passed by learned Magistrate upon submission of charge sheet. So, when the charge sheet has already been submitted and the cognizance of the offences has already been taken by the learned Magistrate, in respect of which there is no illegality, there is no way, the F.I.R. can be quashed at this belated stage. Hence, it is submitted that this criminal miscellaneous petition being without any merit be dismissed.

7. Having heard the submissions made at the Bar and after going through the materials in the record, this Court finds that the only prayer made by the petitioners in this case is for quashing the F.I.R. The undisputed fact remains that the investigation of the case is already over and police during the investigation of the case found the complicity of the petitioners in commission of the offences and after finding such complicity of the petitioners has submitted charge sheet and basing upon the same, the learned Magistrate has taken cognizance of the offences. The petitioners have no grievance regarding the charge sheet submitted against them or the order of taking cognizance and the only contention of the petitioners is that the allegations against them are false, which can only be considered by the learned Magistrate in a full dress trial.

8. It is a settled principle of law that the defence of the accused person and the veracity of the evidence put forth by the accused, cannot be considered in exercise of its jurisdiction under Section 482 Cr.P.C. by the High Court, 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 & Ors. reported in 2004 2 Supreme 501.

9. It is also a settled principle of law that the genuine prosecution cannot be stifled, in exercise of power under Section 482 Cr.P.C. as has been held in the case of Monica Kumar (Dr.) and Another vs. State of Uttar Pradesh and others reported in (2008) 8 SCC 781.

10. In view of the discussions made above, this Court has no hesitation in holding that there is no justifiable reason to accede to the prayer made by the petitioners in this criminal miscellaneous petition in exercise of the power under Section 482 of the Cr.P.C.

11. Accordingly, this criminal miscellaneous petition being without any merit is dismissed.