

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 1402 of 2019

Soumitra Dutt, aged about 64 years, son of late Shyamal Kumar Dutt,
R/o K.P. Dutt Compound, Circular Road Ranchi, P.O. & P.S. -Lalpur,
District -Ranchi. Petitioner

Versus

1. The State of Jharkhand
2. Aniruddha Dutt, son of Shyamal Kumar Dutt, R/o Dutt Compound,
Circular Road Ranchi, P.O. & P.S. -Lalpur, District -Ranchi.

.... Opp. Parties

With

Cr.M.P. No. 2512 of 2021

Pradeep Kumar Verma, Aged about 32 years, Son of Late Vijay Verma,
Resident of Village -Bariyat Basti, Near Alam Nursing Home, P.O. &
P.S. -Bariyat, District -Ranchi.

.... Petitioner

Versus

1. The State of Jharkhand
2. Anirudh Dutt, Son of Late Shyamal Kumar Dutt, Resident of 60,
Circular Road, K.P. Compound, P.O. & P.S. -Lalpur, District -Ranchi.

.... Opp. Parties

With

Cr.M.P. No. 2649 of 2021

Bimal Dutt @ Bimal Dutta, aged about 71 years, son of late Kshitiz
Chandra Dutt, R/o 2 B, Savitri Kunj, P.O. & P.S. -Lalpur, District -
Ranchi.

.... Petitioner

Versus

1. The State of Jharkhand
2. Aniruddha Dutt, son of Shyamal Kumar Dutt, R/o -60 Circular
Road, K.P. Dutt Compound, Circular Road Ranchi, P.O. & P.S. -
Lalpur, District -Ranchi.

.... Opp. Parties

P R E S E N T**HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY**

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For the Petitioners	: Mr. Pratik Sen, Advocate
	: Mr. Vishal Kr. Tiwary, Advocate
	: Mr. Manjeet Kr. Choudhary, Advocate
For the State	: Mrs. Nehala Sharmin, Spl. P.P.
	: Mr. Rajneesh Vardhan, Addl. P.P.
	: Mr. Sachin Kumar, AAG-II
	: Mr. Ashutosh Anand, AAG-III
For the O.P. No.2	: Mr. P.P.N. Roy, Sr. Advocate
	: Mr. Pandey A.N. Roy, Advocate

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By the Court:-

1. Heard the parties.
2. Since all the three criminal miscellaneous petitions have been filed in respect of the same F.I.R. vide Lalpur P.S. Case No. 214 of 2018, corresponding to G.R. No. 3463 of 2018, hence all the three criminal miscellaneous petitions are disposed of by this common judgment.
3. These criminal miscellaneous petitions have been filed invoking the jurisdiction of this Court under Section 482 Cr.P.C. with the common prayer to quash the entire criminal proceeding including the F.I.R. in connection with Lalpur P.S. Case No. 214 of 2018, corresponding to G.R. No. 3463 of 2018 registered for the offences punishable under Section 419, 420, 467, 468, 471, 504, 506, 509 & 120B of the Indian Penal Code and in Cr.M.P. No. 1402 of 2019, an additional prayer has been made for quashing the order dated 19.05.2018, passed by the learned Judicial Magistrate -1st Class, Ranchi, whereby and where under the learned Magistrate invoked the power under 156(3) of the Cr.P.C. and directed for registration of the F.I.R. Cr.M.P. No. 2649 of 2021 has been filed by Bimal Dutt @

Bimal Dutta with a prayer to quash the order dated 19.05.2018, besides quashing the order dated 14.06.2021 by which non-bailable warrant of arrest has been ordered to be issued against him.

4. The brief fact of the case is that the opposite party no.2-complainant-informant of all the three cases filed Complaint Case No. 1980 of 2018. He carried out some amendment in the original Cr.M.P. and the case was fixed to 18.05.2018 vide order dated 17.05.2018 for recording of statement on solemn affirmation of the complainant, but instead of the complainant getting his statement recorded on solemn affirmation, as directed by the Judicial Magistrate concerned, he filed a petition to refer the complaint under Section 156(3) Cr.P.C. for institution of an F.I.R. and for investigation of the case. Vide order dated 19.05.2018, the learned Magistrate referred the said Complaint Case No. 1980 of 2018 for institution of the F.I.R. and basing upon the said order, Lalpur P.S. Case No. 214 of 2018 has been registered and police took up investigation of the case. Though the petitioner of Cr.M.P. No. 2649 of 2021 namely Bimal Dutt @ Bimal Dutta was not the named accused person of the complaint or the F.I.R. which has been registered on the basis of the said complaint but during the course of the said investigation, the I.O. of the case has found complicity of the petitioner in commission of the offence and prayed for issuance of non-bailable warrant of arrest against the petitioner and accordingly vide order dated 14.06.2021 in Lalpur P.S. Case No. 214 of 2018, the learned Judicial Magistrate issued the non-bailable warrant of arrest.

5. The learned counsel for the petitioners relying upon the Judgment of the Hon'ble Supreme Court of India in the case of **M/s. SAS Infratech Pvt. Ltd. Vs. The State of Telangana & Anr.**, in Criminal Appeal No. 2574 of 2024 arising out of Special Leave Petition (Criminal) No. 2123 of 2024 dated 14.05.2024, para-8 of which reads as under:-

“8. In view of the above, it is clear that when the Magistrate in exercise of his judicial discretion directs investigation under Section 156(3) of Cr. P.C., he cannot be said to have taken cognizance of any offence. It is only when the Magistrate after applying his mind prefers to follow the procedure under Chapter XV of Cr.P.C. by resorting to Sections 200, he can be said to have taken cognizance of the offence.” (Emphasis supplied)

Submits that since vide order dated 17.05.2018, the learned Judicial Magistrate, Ranchi after applying his mind preferred to follow the procedure under Chapter XV of the Cr.P.C. by resorting to Section 200 of the Cr.P.C., fixed the case for recording of the statement on solemn affirmation, the same amounts to taking cognizance of the offence and once the learned Magistrate has taken cognizance of the offence, the order dated 19.05.2018 in the said complaint case is act of directing investigation under Section 156(3) of the Cr.P.C. which is not maintainable. Hence, the same be quashed and set aside.

6. The learned Special Public Prosecutor and the learned senior counsel for the opposite party no.2 submits that if that is the submission of the petitioners then in that case, in case the said order dated 19.05.2018 is set aside, the entire criminal proceeding will not

come to an end rather it will revert to the stage at which it was on 18.05.2018 in Complaint Case No. 1980 of 2018.

7. Having heard the submissions made at the Bar and after going through the materials available in the record, this court has no hesitation in holding that the Hon'ble Supreme Court of India in the case of **M/s. SAS Infratech Pvt. Ltd. Vs. The State of Telangana & Anr.** (supra) has in no uncertain manner held in paragraph no.7 and 8 of the said judgment relying upon the Judgment of **Devarapalli Lakshminarayana Reddy and Others Vs. Narayana Reddy and Others**, reported in **(1976) 3 SCC 252** that when receiving a complaint, the Magistrate applies his mind for the purposes of proceeding under Section 200 Cr.P.C. and the succeeding Sections in Chapter -XV of the Code of Criminal Procedure, he is said to have taken cognizance of the offence within the meaning of Section 190 (1)(a) and the Magistrate is not competent to switch back to the pre-cognizance stage and avail Section 156(3) of the Cr.P.C.
8. In view of this settled principle of law, this Court has no hesitation in holding that the learned Magistrate has committed a grave illegality by though vide order dated 17.05.2018 has after application of mind proceeded by resorting to Section 200 of the Cr.P.C., vide subsequent order dated 19.05.2018, he committed a grave illegality in switching back to the pre-cognizance stage and avail of Section 156(3) Cr.P.C.

9. Accordingly, the order dated 19.05.2018, passed in Lalpur P.S. Case No. 214 of 2018, corresponding to G.R. No. 3463 of 2018 is quashed and set aside.
10. Consequently, the entire criminal proceeding relating to Lalpur P.S. Case No. 214 of 2018, corresponding to G.R. No. 3463 of 2018 registered for the offences punishable under Section 419, 420, 467, 468, 471, 504, 506, 509 & 120B of the Indian Penal Code is also quashed and set aside, including the order dated 14.06.2021 by which non-bailable warrant of arrest has been ordered to be issued against the petitioner of Cr.M.P. No. 2649 of 2021 and it is made clear that the learned Judicial Magistrate -1st Class, Ranchi will proceed with the Complaint Case No. 1908 of 2018 from the stage at which it was on 18.05.2018.
11. All the three criminal miscellaneous petitions are disposed of accordingly.
12. The interim relief granted earlier in all the three criminal miscellaneous petitions is vacated.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 30th June, 2025
AFR/Sonu-Gunjan/-