

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 678 of 2026

Hemant Soren, aged about 49 years, son of Shibu Soren, Resident of 1
Mayers Road, P.O. -Kanke, P.S. -Gonda, District -Ranchi.

.... Petitioner

Versus

The State of Jharkhand Opp. Party

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

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For the Petitioner : Mr. Jitendra Shankar Singh, Sr. Advocate
: Mr. Pradeep Chandra, Advocate
: Mr. Deepankar, Advocate
For the State : Mr. Achyut Keshav, Sr. AAG
: Mr. Shashank Shekhar, AC to Sr. AAG
: Mr. Shubham Gautam, AC to Sr. AAG

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By the Court:-

1. Heard the parties.
2. 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 entire criminal proceeding including the order taking cognizance dated 16.08.2017, passed by the learned Chief Judicial Magistrate, Chaibasa in Adityapur P.S. Case No. 418 of 2014 corresponding to G.R. Case No. 858 of 2021 whereby and where under cognizance has been taken of the offences punishable under Section 188/506 of the Indian Penal Code and under Section 125 of the Representation of the People Act, 1951 and to quash the order dated 08.07.2019, passed by the learned Judicial Magistrate -1st Class, Seraikella in

connection with G.R. Case No. 1208 of 2014 which has been renumbered as G.R. Case No. 858 of 2021 after the case being transferred to the court of learned Sub Divisional Judicial Magistrate, Sadar-cum-Special Judge, MP/MLA, West Singhbhum at Chaibasa whereby and where under charges has been framed against the petitioner for having committed the offences punishable under Section 188/506 of the Indian Penal Code and under Section 125 of the Representation of the People Act, 1951.

3. The allegation against the petitioner is that the petitioner being the Hon'ble Chief Minister of Jharkhand addressed a public meeting in Adityapur on 24.11.2014 organized by his political party namely Jharkhand Mukti Morcha as a part of campaigning for the election. In the said address, the petitioner made sarcastic remarks against the opposition parties regarding the conspiracy for amendment of the SPT Act, CNT Act, Land Acquisition Act and the Labour Laws and also stated that if such amendment takes place then nobody can stop flowing of river of blood in the State. Alleging violation of the model code of conduct on the part of the petitioner, the Block Development Officer-cum-Magistrate of the Flying Squad, Seraikella lodged the First Information Report. Basing upon the same, Adityapur P.S. Case No. 418 of 2014 was registered and police took up investigation of the case. After completion of the investigation

of the case, police submitted charge sheet against the petitioner for having committed the offences punishable under Section 188/506 of the Indian Penal Code and under Section 125 of the Representation of the People Act, 1951 and the learned Chief Judicial Magistrate, Chaibasa has taken cognizance of the said offences vide the order dated 16.08.2017, passed in G.R. Case No. 1208 of 2014. It is pertinent to mention here that the Representation of the People Act, 1951 because of apparent mistake, has erroneously been mentioned as Public Representation Act, 1951, both in the charge sheet and in the said cognizance order dated 16.08.2017. Subsequently vide order dated 08.07.2019, charge for the offences punishable under Section 188/506 of the Indian Penal Code and under Section 125 of the Representation of the People Act, 1951 has been framed by the learned Judicial Magistrate -1st Class, Seraikella.

4. It is submitted by the learned senior counsel for the petitioner by relying upon the Judgment of this Court in the case of **Mahua Maji Vs. The State of Jharkhand**, reported in **2026:JHHC:5438** that therein this Court relied upon the Judgment of the Hon'ble Supreme Court of India in the case of **C. Muniappan & Others Vs. State of Tamil Nadu**, reported in **(2010) 9 SCC 567** para -33 of which reads as under:-

“33. Thus, in view of the above, the law can be summarised to the effect that there must be a complaint by the public servant whose lawful order has not been complied with. The complaint must be in writing. The provisions of Section 195 CrPC are mandatory. Non-compliance with it would vitiate the prosecution and all other consequential orders. The court cannot assume the cognizance of the case without such complaint. In the absence of such a complaint, the trial and conviction will be void ab initio being without jurisdiction.” (Emphasis supplied)

that therein the Hon’ble Supreme Court of India has held that in view of Section 195 of the Code of Criminal Procedure *inter-alia* to take cognizance of the offence punishable under Section 188 of the Indian Penal Code, a complaint in writing must have to be filed and non-compliance of the same will vitiate the prosecution and all other consequential orders.

5. It is next submitted by the learned senior counsel for the petitioner relying upon the Judgment of the Hon’ble Supreme Court of India in the case of **Naresh Aneja @ Naresh Kumar Aneja Vs. State of Uttar Pradesh and Another**, reported in **(2025) 2 SCC 604**, para -26 & 27 of which reads as under:-

“26 Manik Taneja v. State of Karnataka [Manik Taneja v. State of Karnataka, (2015) 7 SCC 423 : (2015) 3 SCC (Cri) 132] as affirmed by a Bench of three Judges in Parminder Kaur v. State of Punjab [Parminder Kaur v. State of Punjab, (2020) 8 SCC 811 : (2020) 3 SCC (Cri) 914] , records the principle of application of Section 506IPC in the following terms : (Manik Taneja case [Manik Taneja v. State of Karnataka, (2015) 7 SCC 423 : (2015) 3 SCC (Cri) 132] , SCC p. 428, paras 11-12)

“11. ... A reading of the definition of “criminal intimidation” would indicate that there must be an act of threatening to another person, of causing an injury to the person, reputation, or property of the person threatened, or to the person in whom the threatened person is interested and the threat must be with the intent to cause alarm to the person threatened or it must be to do any act

which he is not legally bound to do or omit to do an act which he is legally entitled to do.

12. ... It is the intention of the accused that has to be considered in deciding as to whether what he has stated comes within the meaning of "criminal intimidation". The threat must be with intention to cause alarm to the complainant to cause that person to do or omit to do any work. Mere expression of any words without any intention to cause alarm would not be sufficient to bring in the application of this section. But material has to be placed on record to show that the intention is to cause alarm to the complainant."

27. A recent judgment of this Court, Sharif Ahmed v. State of U.P. [Sharif Ahmed v. State of U.P., (2024) 14 SCC 122 : 2024 SCC OnLine SC 726] held as under : (SCC para 48)

"48. An offence of criminal intimidation arises when the accused intends to cause alarm to the victim, though it does not matter whether the victim is alarmed or not. The intention of the accused to cause alarm must be established by bringing evidence on record. The word "intimidate" means to make timid or fearful, especially : to compel or deter by or as if by threats. ["intimidate". Merriam-Webster.com. Merriam-Webster, 2024.] The threat communicated or uttered by the person named in the charge-sheet as an accused, should be uttered and communicated by the said person to threaten the victim for the purpose of influencing her mind. The word "threat" refers to the intent to inflict punishment, loss or pain on the other. Injury involves doing an illegal act."

This judgment also, with reference to Manik Taneja [Manik Taneja v. State of Karnataka, (2015) 7 SCC 423 : (2015) 3 SCC (Cri) 132] , underscored the importance of material and evidence being placed on record to demonstrate intention. A mere statement without intention would not attract the offence." (Emphasis supplied)

that therein the Hon'ble Supreme Court of India has discussed the ingredients to constitute the offence punishable under Section 506 of the Indian Penal Code. It is next submitted that even if the entire allegations made against the petitioner are considered to be true in their entirety, still the offence punishable under Section 506 of the Indian Penal Code is not made out.

6. It is then submitted that the offence punishable under Section 125 of the Representation of the People Act, 1951 is also not made out; in the absence of any allegation against the petitioner of promoting or attempting to promote on ground of religion, race, caste community or language feeling of enmity or hatred between different classes of citizens of India.
7. It is next submitted that as none of the offences in respect of which cognizance has been taken or charge has been framed against the petitioner, is made out against the petitioner, therefore continuation of this criminal proceeding will amount to abuse of process of law. Hence, it is submitted that the prayer as prayed for by the petitioner in this criminal miscellaneous petition be allowed.
8. The learned Senior AAG appearing for the State on the other hand vehemently opposes the prayer and submits that if the entire allegations made against the petitioner are considered to be true then each of the offences in respect of which cognizance has been taken and charge has been framed; is in fact made out against the petitioner. Hence, it is submitted that this criminal miscellaneous petition being without any merit be dismissed.
9. Having heard the submissions made at the Bar and after going through the materials available in the record, it is pertinent to mention here that so far as the offence punishable under Section

188 of the Indian Penal Code is concerned, it is pertinent to refer to Section 188 of the Indian Penal Code which reads as under:-

“188. Disobedience to order duly promulgated by public servant. —

Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both: and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation. — It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.”

10. The essential ingredients of the offence punishable under Section 188 of the Indian Penal Code are as follows:-

- (i) There was promulgation of an order;
- (ii) Such promulgation was made by a public servant;
- (iii) The Public servant was legally empowered to make the promulgation;

(iv) The promulgation directed not to do certain things or to take certain orders in connection with certain property in his possession or management;

(v) The accused knew of the promulgation;

(vi) The accused disobeyed it;

(vii) Such disobedience caused or intended to cause obstruction, annoyance, injury or risk of the same to a person lawfully employed or caused or tender to cause danger to human life, health or safety, or caused or to tender to cause riot or affray.

11. Section 195 of the Code of Criminal Procedure envisages filing of a complaint in writing by the public servant concerned, the contempt of whose lawful authority has been committed or some other public servant to whom he is administratively subordinate.

12. Now coming to the facts of the case, in the F.I.R. or anywhere else in this record, there is no reference to any promulgation of any order which has been violated by the petitioner. Section 195 of the Code of Criminal Procedure debars any court from taking cognizance of any offence punishable under Sections 172 to 178 of the Indian Penal Code both inclusive or any abatement or attempt to commit such offence or any criminal conspiracy to commit such offence except on the complaint in writing of the public servant concerned or some other public servant to whom he is administratively sub-ordinate.

13. It is a settled principle of law that the provisions under Section 195 of the Code of Criminal Procedure is mandatory and the

non-compliance of which will vitiate the prosecution as has been held by the Hon'ble Supreme Court of India in the case of **C. Muniappan & Others vs. State of Tamil Nadu** (supra).

14. In this case, the undisputed fact remains that there has not been any complaint filed by any public servant in terms of Section 195 of the Cr.P.C. Thus, this Court has no hesitation in holding that the learned Judicial Magistrate has committed a grave illegality in taking the cognizance of the offence punishable under Section 188 of the Indian Penal Code more so when there is no allegation regarding the essential ingredients to constitute the offence punishable under Section 188 of the Indian Penal Code as has been referred to in the foregoing paragraphs of this judgment.

15. So far as the offence punishable under Section 506 of the Indian Penal Code is concerned, the essential ingredients to constitute the said offence are:-

(i) The accused threatened someone with injury to his person, reputation or property or to the person reputation or property of another in whom the former was interested.

(ii) The accused did so with intent to cause alarm to the victim of an offence.

(iii) The accused did so to cause the victim to perform any act which he was not legally bound to do.

16. Now coming to the facts of the case, there is absolutely no allegation against the petitioner of threatening someone of injury to his person, reputation or property. In the absence of this essential ingredient, this Court is of the considered view that even if the entire allegations made against the petitioner are considered to be true in their entirety, still the offence punishable under Section 506 of the Indian Penal Code is not made out against the petitioner.
17. So far as the offence punishable under Section 125 of the Representation of the People Act, 1951 is concerned, the essential ingredients to constitute the said offence are as under:-
- (i) There must be election process under the provisions of the Representation of the People Act.
 - (ii) The accused promoted or attempted to promote feeling of enmity or hatred between different classes of citizens of India.
 - (iii) Such promotion or attempt to promote hatred is on the ground of religion, race, caste, community or language.
18. Now coming to the facts of the case, there is no allegation against the petitioner of promoting hatred between different class of the citizens of India on the ground of religion, race, caste, community or language. The only allegation against the petitioner is that the petitioner expressed his anguish regarding a conspiracy contemplated to amend the S.P.T. and C.N.T. Act and the Labour Laws. Even if the same are considered to be

true in their entirety, still the same cannot constitute promoting hatred between different class of citizens of India. Hence, this Court is of the considered view that even if the entire allegations made against the petitioner are considered to be true in their entirety, still the offence punishable under Section 125 of the Representation of the People Act is not made out.

19. In view of the discussions made above, as none of the offence in respect of which the cognizance has been taken by the learned Chief Judicial Magistrate, Chaibasa vide order dated 16.08.2017 in Adityapur P.S. Case No. 418 of 2014 corresponding to G.R. Case No. 858 of 2021 and charges has been framed by the learned Judicial Magistrate -1st Class, Seraikella vide order dated order dated 08.07.2019, in connection with G.R. Case No. 1208 of 2014 which has been renumbered as G.R. Case No. 858 of 2021 is made out against the petitioner, hence continuation of this criminal proceeding against the petitioner will amount to abuse of process of law.

20. Therefore, this is a fit case where the entire criminal proceeding including the order taking cognizance dated 16.08.2017, passed by the learned Chief Judicial Magistrate, Chaibasa in Adityapur P.S. Case No. 418 of 2014 corresponding to G.R. Case No. 858 of 2021 whereby and where under cognizance has been taken of the offences punishable under Section 188/506 of the Indian Penal Code and under Section 125

of the Representation of the People Act, 1951 and also the order dated 08.07.2019, passed by the learned Judicial Magistrate -1st Class, Seraikella in connection with G.R. Case No. 1208 of 2014 which has been renumbered as G.R. Case No. 858 of 2021 after the case being transferred to the court of learned Sub Divisional Judicial Magistrate, Sadar-cum-Special Judge, MP/MLA, West Singhbhum at Chaibasa whereby and where under charges has been framed against the petitioner for having committed the offences punishable under Section 188/506 of the Indian Penal Code and under Section 125 of the Representation of the People Act, 1951, be quashed and set aside *qua* the petitioner.

21. Accordingly, the entire criminal proceeding including the order taking cognizance dated 16.08.2017, passed by the learned Chief Judicial Magistrate, Chaibasa in Adityapur P.S. Case No. 418 of 2014 corresponding to G.R. Case No. 858 of 2021 whereby and where under cognizance has been taken of the offences punishable under Section 188/506 of the Indian Penal Code and under Section 125 of the Representation of the People Act, 1951 and also the order dated 08.07.2019, passed by the learned Judicial Magistrate -1st Class, Seraikella in connection with G.R. Case No. 1208 of 2014 which has been renumbered as G.R. Case No. 858 of 2021 after the case being transferred to the court of learned Sub Divisional Judicial Magistrate, Sadar-cum-Special Judge, MP/MLA, West Singhbhum at Chaibasa

whereby and where under charges has been framed against the petitioner for having committed the offences punishable under Section 188/506 of the Indian Penal Code and under Section 125 of the Representation of the People Act, 1951, is quashed and set aside *qua* the petitioner.

22. In the result, this criminal miscellaneous petition is allowed.
23. In view of disposal of this criminal miscellaneous petition, the interim reliefs granted earlier vide orders dated 17.10.2023 and 09.01.2024 are vacated.
24. Registry is directed to intimate the court concerned forthwith.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 25th June, 2026
AFR/Sonu-

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