

IN THE HIGH COURT OF JHARKHAND AT RANCHI  
Cr.M.P. No. 1731 of 2025

Anvesha Ona, aged about 33 years, W/o Nishi Kant  
Sharma, R/o Shivmani, Road No. 9, Rishabh Nagar,  
New Pundag, P.O.- Dhurwa, P.S.- Jagarnathpur,  
District- Ranchi. .... Petitioner

Versus

The State of Jharkhand ..... Opposite Party

For the Petitioner : Mr. J.S.Singh, Sr. Adv.  
Mr. Utpal Kant, Adv.  
For the State : Mr. Manoj Kumar, Addl. PP

**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 528 of BNSS, 2023 with the prayer for quashing and setting aside the entire criminal proceeding as well as the FIR in connection with Dumri P.S. case no. 70 of 2025 registered for the offences punishable under Sections 108, 61, 316, 351, 352 of BNS, 2023, pending in the court of learned JMFC, Giridih.
3. It is submitted by learned senior counsel for the petitioner that the investigation of the case is still going on and chargesheet has not yet been submitted.
4. The allegation against the petitioner is that the petitioner at the relevant time was posted as Block Development Officer of Dumri, and misbehaved with the deceased Panchayat Secretary namely Sukhlal Mahato by calling him '*tum tam mere tere*'.
5. It is next submitted by learned senior counsel for the petitioners that even assuming for the sake of argument that the entire averments made in the First Information Report are considered to

be true in their entirety still none of the offences in respect of which, the First Information Report has been registered, is made out against the petitioner.

6. Relying upon the judgment of the Hon'ble Supreme Court of India in the case of **Amudha vs. The State represented by the Inspector of Police and Another** reported in **2024 INSC 244**, para 10 of which reads as under:-

*"10. A Bench of three Hon'ble Judges in the case of Pawan Kumar v. State of Himachal Pradesh,<sup>1</sup> after considering the provisions of Sections 107 and 306 of the IPC, in paragraph 43, held thus:*

*"43. Keeping in view the aforesaid legal position, we are required to address whether there has been abetment in committing suicide. Be it clearly stated that mere allegation of harassment without any positive action in proximity to the time of occurrence on the part of the accused that led a person to commit suicide, a conviction in terms of Section 306 IPC is not sustainable. A casual remark that is likely to cause harassment in ordinary course of things will not come within the purview of instigation. A mere reprimand or a word in a fit of anger will not earn the status of abetment. There has to be positive action that creates a situation for the victim to put an end to life."*

*(emphasis added)"*

It is submitted by the learned senior counsel for the petitioner that a causal remark that is likely to cause harassment, in ordinary course of things will not come within the purview of instigation, as used in Section 306 of IPC which corresponds to Section 108 of BNS.

7. Learned senior counsel for the petitioner next relies upon the judgment of the Hon'ble Supreme Court of India in the case of **Balaji Jaiswal vs. State of Chattisgarh and Another** reported in **2026 0 Supreme (SC) 406**, para 11 of which reads as under:-

*"11. From the aforesaid decision, it becomes clear that for sustaining a charge under Section 306 of the Penal Code, it has to be shown that the accused persons had contributed to the suicide by the deceased through some direct or indirect*

*act. Section 107 of the Penal Code has thereafter been referred to hold that there ought to be some instigation or incitement that would reveal a clear mens rea to abet the commission of suicide, thus, leading the victim to such a position that he/she would have no other option but to commit suicide. There ought to be some material to indicate a positive act of instigation, which is a crucial component of abetment. Instigation or incitement on the part of the accused person has been held to be the gravamen of the offence of abetment to suicide. The act of instigation also has to be in close proximity to the act of suicide so as to form the nexus or a chain to indicate that the act of suicide was the direct result of the act of instigation by the accused person. Incidentally, the decision in Ramesh Kumar (supra) cited by the learned counsel for the first respondent has been considered and relied upon in Prakash and others (supra)."*

and submits that therein it has been mentioned that the act of the instigation also has to be in close proximity to the act of suicide so as to form the nexus or a chain to indicate that the act of suicide was the direct result of the act of instigation by the accused person.

8. It is next submitted that the deceased Panchayat Secretary was issued show cause notice from the office of the Block Development Officer, Dumri and as the deceased did not respond to the show cause notice, so Form K was made against the deceased on 11.06.2025 and in the absence of any allegation of any overt act, the offence of criminal conspiracy is not made out. It is next submitted that without the allegation of any entrustment of any property to the petitioner, the offence punishable under section 316 of BNS is not made out. It is further submitted that in the absence of any threat being given by the petitioner, the offence of criminal intimidation punishable under Section 351 of BNS is not made out and in the absence of any allegation of any insult aimed at provoking a breach of public peace having been committed by the petitioner, the offence punishable under Section 352 of BNS is not made out. It is lastly submitted that since none of the offences in respect of which the FIR has been registered, is made out against the petitioner, hence, the prayer as made in this criminal miscellaneous petition be allowed.

9. Learned counsel for the State, on the other hand, vehemently opposes the prayer of the petitioner and submits that the witness Motilal Mahto, the Secretary of Chino Panchayat and Chegro Panchayat in his statement recorded under Section 180 of BNSS, has stated that though all the Panchayat Secretaries were present in the alleged meeting including the deceased Sukhlal Mahto but the Block Development Officer did not insult the deceased Sukhlal Mahto in any manner and the same statement has been corroborated by the witness Rajkumar Choudhary, the Panchayat Secretary of Poraiya Panchayat and Asurbandh Panchayat, hence, it is submitted that this Criminal Miscellaneous Petition being without any merit, be dismissed.
10. 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 the instigation as envisaged in Section 108 of BNS which corresponds to Section 306 of IPC, is to goad, urge forward, provoke, incite or encourage to do "an act". To satisfy the requirement of instigation, a reasonable certainty to incite the consequence must be capable of being spelt out as has been held by the Hon'ble Supreme Court of India in the case of **Chitresh Kumar Chopra vs State** reported in **2009 16 SCC 605**.
11. The Hon'ble Supreme Court of India in the case of **Ramesh Kumar vs. State of Chhatisgarh** reported in **(2001) 9 SCC 618**, dealt with as to what constitutes instigation and went on to hold that the instigation must necessarily and specifically be suggestive of the consequence and a reasonable certainty to incite the consequence must be capable of being spelt out, more so a continued course of conduct as to create such circumstances that the deceased was left with no other option but to commit suicide. Now coming to the facts of the case, the only allegation against the petitioner is that the petitioner used *Tum Tam* and *Tere Mere* to the deceased and even that was found to be not true from the witnesses so far examined during the investigation of the case as is evident from paragraph 14 of the Counter Affidavit filed by the

- State and even assuming that she has said so, still this Court is of the considered view, that merely using the words *Tum Tam* and *Tere Mere*, to the Panchayat Secretary by the Block Development Officer cannot be termed as instigation to commit suicide as the word 'instigates' used in section 45 of BNS, 2023 which corresponds to section 107 of IPC. Thus, this Court is of the considered view that even if the entire allegation made against the petitioner are considered to be true in their entirety still the offence punishable under Section 108 of BNS is not made out against the petitioner.
12. So far as the offence punishable under Section 61 of BNS is concerned, the same refers to the offence of criminal conspiracy for which there has to be meeting of mind between the persons who indulged in the criminal conspiracy. After going through the materials in the record, this Court do not find such materials in the record to show that the petitioner has ever indulged in any criminal conspiracy. Therefore, the offence punishable under Section 61 of BNS is also not made out against the petitioner even if the entire allegations made against the petitioner are considered to be true in their entirety.
13. So far as the offence punishable under Section 316 of BNS is concerned, the same refers to the criminal breach of trust and for criminal breach of trust, the essential ingredients is - entrustment of property and dishonest mis-appropriation of the entrusted property.
14. Now coming to the facts of the case, there is absolutely no allegation against the petitioner of any property being entrusted to her or she having dishonestly misappropriated any property entrusted and in the absence of allegation of such essential ingredient to constitute the offence, this Court is of the considered view that even if the entire allegations against the petitioner are considered to be true in their entirety, still the offence punishable under Section 316 of BNS is not made out.

15. So far as the offence punishable under Section 351 of BNS is concerned, the same relates to criminal intimidation. Now coming to the facts of the case, the only allegation against the petitioner is that the petitioner used the words *Tum Tam* and *Tere Mere* and this by no stretch of imagination, can be said to be threatening; which is a *sine qua non* to constitute the offence of criminal intimidation. 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 351 of BNS is not made out against the petitioner.
16. So far as the offence punishable under Section 352 of BNS is concerned, the same relates to insult intended to provoke breach of peace. Now the only words used are '*Tum Tam*' and '*Tere Mere*' by a Block Development Officer to the Panchayat Secretary, in the considered opinion of this Court cannot be termed as intentional insult to provoke breach of peace.
17. In view of the discussions made above, as none of the offences in respect of which the FIR has been registered, is made out against the petitioner even if the entire allegations are considered to be true in their entirety, this Court has no hesitation in holding that continuation of this criminal proceeding against the petitioner will amount to abuse of process of law. Therefore, this is a fit case where the entire criminal proceeding as well as the FIR in connection with Dumri P.S. case no. 70 of 2025 be quashed and set aside *qua* the petitioner.
18. Accordingly, the entire criminal proceeding as well as the FIR in connection with Dumri P.S. case no. 70 of 2025, is quashed and set aside *qua* the petitioner.
19. In the result, this Criminal Miscellaneous Petition is allowed and in view of the disposal of this Criminal Miscellaneous Petition, the interim relief granted earlier to the petitioner vide order dated 24.07.2025 is vacated.