

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 03 of 2024

Bhushan Bara, aged about 51 years, s/o late Peter Bara, r/o Village-Sogra, Pethiyar Toli, P.O. & P.S.- Pakartanr, Dist.- Simdega

.... Petitioner

Versus

1. The State of Jharkhand
2. Rashmi Sanchita Ekka, d/o Sushil Ekka, R/o Village 100 Deogaon, P.O, P.S. & Dist.- Gumla

.... Opp. Parties

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

.....

For the Petitioner	: Mr. Shailesh Kr. Singh, Advocate
For the State	: Mr. Manoj Kumar, GA-III
For O.P. No.2	: Mr. Prashant Kr. Shrivastava, Advocate

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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 482 Cr.P.C. with a prayer to quash the portion of the order dated 19.12.2023, passed in MP/MLA Case No. 05 of 2021 by the learned Judicial Magistrate-XII, Ranchi whereby and where under, the learned Judicial Magistrate- XII, Ranchi, rejected the prayer to examine the I.O. of Simdega Mahila P.S. Case No. 19 of 2019 as a defence witness.
3. It is the case of the petitioner who is the accused of Complaint Case No. 68 of 2018 of the court of Judicial Magistrate 1st Class, Ranchi that for the selfsame occurrence which took place on 02.01.2018 subsequent to this complaint being filed, the complainant lodged another written report basing upon which

Simdega Mahila P.S. Case No. 19 of 2019, corresponding to MP/MLA Case No.05 of 2021 was registered for which after investigation, charge sheet has been submitted.

4. It is submitted by the learned counsel for the petitioner that since it is the specific plea of the petitioner that for the selfsame occurrence, a police case was registered vide Simdega Mahila P.S. Case No. 19 of 2019 and undisputedly, Mirju Hembrom is the I.O. of the said case hence, to establish the said defence of the petitioner, the examination of Mirju Hembrom as a defence witness in Complaint Case No. 68 of 2018 is required but ignoring the said fact, the learned Judicial Magistrate has erroneously rejected the portion of the prayer of the petitioner to examine Mirju Hembrom as a witness. Hence, it is submitted that the said portion of the order dated 19.12.2023, passed in MP/MLA Case No. 05 of 2021 by the learned Judicial Magistrate-XII, Ranchi be quashed and set aside.
5. Learned G.A.-III and the learned counsel for the opposite party no.2 on the other hand opposes the prayer to quash the portion of the order dated 19.12.2023, passed in MP/MLA Case No. 05 of 2021 by the learned Judicial Magistrate-XII, Ranchi but fairly submits that it is the contention of the petitioner that for the selfsame occurrence for which Complaint Case No. 68 of 2018 has been instituted, Simdega Mahila P.S. Case No. 19 of 2019 has also been instituted and Mirju Hembrom was the I.O. of the said case and in that case, Mirju Hembrom submitted charge sheet but it is submitted by learned G.A.-III and the learned counsel for the

opposite party no.2 that her examination is not necessary as the said fact is irrelevant for the outcome of the case. Hence, it is submitted that this criminal miscellaneous petition being without any merit be dismissed.

6. Having heard the submissions made at the Bar and after going through the materials in the record, it is pertinent to mention here that undisputedly, it is the specific plea of the petitioner that for the selfsame occurrence of 02.01.2018, Simdega Mahila P.S. Case No. 19 of 2019 has been instituted hence, this Court is of the considered view that examination of Mirju Hembrom as a defence witness appears to be essential for just decision of the case to ascertain the veracity of the said defence of the petitioner. Hence, the learned Magistrate has committed gross illegality by rejecting the prayer of the petitioner for examination of Mirju Hembrom as a defence witness.
7. Accordingly, the said portion of the order dated 19.12.2023, passed in MP/MLA Case No. 05 of 2021 by the learned Judicial Magistrate-XII, Ranchi by which the prayer of examination of Mirju Hembrom as a defence witness was rejected is set aside
8. The petitioner is directed to furnish the present posting and address of Mirju Hembrom within 30 days from the date of this order before the learned trial court and upon such address being furnished, the learned trial court is directed to issue notice to Mirju Hembrom to be examined as a defence witness on behalf of the petitioner who is an accused of Complaint Case No. 68 of 2018

pending in the court of Judicial Magistrate for MP/MLA Cases,
Ranchi.

9. In the result, this criminal miscellaneous petition is allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 17th January, 2024
AFR/Sonu-Gunjan/-