

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**Cr.M.P. No. 3722 of 2018**

Sujoy Ghosh, aged about 52 years, son of Simanta Ghosh,  
resident of Sea Spring, Bandra West, Mumbai, P.O. Bandra  
P.S. Bandra, District Mumbai (Maharashtra).

..... Petitioner

Versus

1. The State of Jharkhand
2. Umesh Prasad Mehta, son of Shri Bhuneshwar Mahto,  
resident of Village Churchu, P.O.- Ichak, P.S.- Sadar, District -  
Hazaribagh. .... Opposite Parties

For the Petitioner : Mr. Indrajit Sinha, Adv.

For the State : Mr. P.D. Agrawal, Spl. PP

For the O.P. No. 2 : Mr. Ajit Kumar, Sr. Adv.  
Mr. Sameer Rajan Adv.

**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 482 of CrPC with a prayer for quashing and setting aside the entire criminal proceeding including the order dated 07.06.2018 whereby and where under, learned Chief Judicial Magistrate, Hazaribagh has found *prima facie* case under Section 63 of the Copyright Act, 1957 and ordered for issuance of summons *inter alia* against the petitioner.
3. The allegation against the petitioner is that the petitioner being the Producer, Director and claiming to be a Writer and is the owner of Western India Film Producer. The complainant wrote a script of a film "Sabak" which was certified by the Notary Public of Hazaribagh for obtaining copyright of the script. The complainant *inter alia* met the petitioner and obtained a recommendation letter from him as the recommendation of a film producer organization is essential for obtaining the copyright of a film script. The petitioner kept the photocopy of the script of the

- complainant. It is alleged that the petitioner knowingly infringed the copyright of the complainant by producing a film with the title "Kahani -2". The film was watched by the complainant in a film hub at Hazaribagh. After watching the film, the complainant could know that the petitioner has violated his copyright by committing theft of the script and infringing the copyright of the complainant, produced the film namely "Kahani-2". On the basis of the complaint, the statement on Solemn Affirmation of the complainant and the statement of the enquiry witnesses, learned CJM, Hazaribagh found *prima facie* case for the offences punishable under Section 63 of the Copyright Act, 1957.
4. Learned counsel for the petitioner relying upon the judgment of the Hon'ble Supreme Court of India in the case of **R.G. ANAND vs. M/s DELUX FILMS AND OTHERS** reported in (1978) 4 SCC 118 submits that in that case, when the appeal by Special Leave was before the Hon'ble Supreme Court of India, against the judgment of Delhi High Court affirming the decree of the District Judge, Delhi, dismissing the plaintiff's suit for damages against the defendants on the ground that they had violated the copyrighted work of the plaintiff which was a drama, the Hon'ble Supreme Court of India has laid down the provisions regarding a copyright in para 46 (3) of the said judgment, by holding that one of the surest and the safest test to determine whether or not, there has been a violation of copyright is to see, the reader, spectator or the viewer, after having read or seen, both the works, is clearly of the opinion and gets an unmistakable impression, that the subsequent work appears to be a copy of the original and as learned Chief Judicial Magistrate, Hazaribagh has neither seen the script of the complainant nor watched the film "Kahani-2" himself, he could not have held that there is *prima facie* case under Section 63 of the Copyright Act, 1957 made out against the petitioner and without the same, having found *prima facie* case under Section 63 of the Copyright Act, 1957, vide the order dated 07.06.2018, hence, it is submitted that the order dated 07.06.2018

suffers from grave illegality and is not sustainable in law. Learned counsel for the petitioner further relies upon the judgment of the Hon'ble Supreme Court of India in the case of **Inox Air Products Limited now known at Inox Air Product Private Limited and Another vs. State of Andhra Pradesh** reported in **2025 SCCOnline SC 209**, in para 35 of which it has been held that since summoning of an accused in a criminal case, is a serious matter, therefore, in the order of the Magistrate summoning an accused, it must reflect that he has applied his mind to the facts of the case and the law applicable thereto and the Magistrate is required to examine the nature of the allegation made in the complaint and the evidence, both oral and documentary in support thereof and as to whether that would be sufficient to proceed against the accused. It is lastly submitted that the court at Hazaribagh has no territorial jurisdiction, hence, it is submitted that the prayer as prayed for in the instant Criminal Miscellaneous Petition, be allowed.

5. Learned Special P.P appearing for the State and the learned senior counsel for the opposite party No.2 on the other hand vehemently oppose the prayer of the petitioner and relying upon the judgment of the High Court for the State of Telangana at Hyderabad in the case of **Koratala Siva vs. The State of Telangana & Anr. and allied cases in Criminal Petition no. 1728 of 2017 and allied cases**, it is submitted by learned Special P.P appearing for the State and the learned counsel for the opposite party No.2 that if there is minor change in the story line and most part of the novel being the same including the characters, their roles etc., it cannot be said that the offences alleged are not attracted. Learned Special P.P appearing for the State and the learned senior counsel for the opposite party No.2 next submits that at the stage of issuing process, the only thing is to be seen, as to whether there are sufficient grounds for proceeding against the accused. It is next submitted that there is sufficient material in the record, to constitute the offence punishable under Section 63 of

the Copyright Act , 1957, hence it is submitted that this Cr.M.P., being without any merit, be dismissed.

6. Having heard the rival submissions made at the Bar and after going through materials available in the record, it is pertinent to mention here that it is the settled principle of law that the inherent power of the high court should not be exercised to stifle with the legitimate prosecution. The high court should normally refrain from giving *prima facie* decision in a case where all the facts are incomplete and hazy, more so, when the evidence has not been collected and produced before the court in the issues involved, whether factual or legal are of such magnitude that they cannot be seen in their true perspective, without sufficient material, as has been held by the Hon'ble Supreme Court of India in the case of **Inder Mohan Goswami & Another vs State Of Uttaranchal & Others** reported in (2007) 12 SCC 1, para 27 of which reads as under :-

*"27. The powers possessed by the High Court under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. The Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court should normally refrain from giving a prima facie decision in a case where all the facts are incomplete and hazy, more so, when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of such magnitude that they cannot be seen in their true perspective without sufficient material. Of course, no hard-and-fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceedings at any stage."*  
(Emphasis supplied)

7. It is also a settled principle of law that the high court is not to examine the merit and demerits of the case and not to determine the adequacy of the evidence for holding the accused guilty in exercise of the power under Section 482 of Cr.P.C. and the court is also not required to embark upon the possible defence as has been observed by the Hon'ble Supreme Court of India in the case of **State of Gujarat v. Afroz Mohammed Hasanfatta** reported in (2019) 20 SCC 539, paragraph no. 39 of which reads as under :-

*39. For issuance of process against the accused, it has to be seen only whether there is sufficient ground for proceeding against the accused.*

At the stage of issuance of process, the court is not required to weigh the evidentiary value of the materials on record. The court must apply its mind to the allegations in the charge-sheet and the evidence produced and satisfy itself that there is sufficient ground to proceed against the accused. The court is not to examine the merits and demerits of the case and not to determine the adequacy of the evidence for holding the accused guilty. The court is also not required to embark upon the possible defences. Likewise, "possible defences" need not be taken into consideration at the time of issuing process unless there is an ex facie defence such as a legal bar or if in law the accused is not liable. [Vide Nupur Talwar v. CBI [Nupur Talwar v. CBI, (2012) 11 SCC 465 : (2013) 1 SCC (Cri) 689] .]. (Emphasis supplied)

8. It is also a settled principle of law that no mini trial can be conducted by the high court in exercise of power under Section 482 of Cr.P.C, as has been observed by the Hon'ble Supreme Court of India in the case of **State of Uttar Pradesh & Anr. vs. Akhil Sharda & Ors.** reported in (2019) 20 SCC 531, wherein the Hon'ble Supreme Court of India has reiterated the settled principle of law by observing as under-

*" Having gone through the impugned judgment and order passed by the High court has set aside the criminal proceedings in exercise of powers under Section 482 CrPC, it appears that the High Court has virtually conducted a mini trial, which as such is not permissible at this stage and while deciding the application under Section 482CrPC. As observed and held by this court in a catena of decisions, no mini trial can be conducted by the High Court in exercise of power under Section 482CrPC, jurisdiction and at the stage of deciding the application under Section 482CrPC, the High Court cannot get into appreciation of evidence of the particular case being considering. (Emphasis supplied)*

9. It is also a settled principle of law that the scope of enquiry under Section 202 of the CrPC is very limited one and that is to find out that whether there are sufficient grounds for proceeding against the accused, as has been held by the Hon'ble Supreme Court of India in the case of **Sashi Jena & Ors vs Khadal Swain & Anr.** reported in reported in (2004) 4 SCC 236 as also in AIR 2004 SC 1492.
10. Now coming to the facts of the case, there is direct and specific allegation against the petitioner that the petitioner has knowingly infringed the copyright in a work of the complainant. The complainant wrote the script of a film, got the copyright of the same but in the process of making the copyright, in order to get the recommendation from the film producer organization of the

petitioner, gave a copy of his script to the petitioner, and though the petitioner assured that the complainant that whenever the petitioner will make a film, on the script of the complainant, he will call the complainant but behind his back has produced a film by using the script of the complainant. The veracity of such statement, is certainly is to be tested at the time to trial but at the stage of issuing the process when accused has no right to take part, the limited role of Magistrate in putting questions to the complainant and the witnesses, has been discharged by the learned Chief Judicial Magistrate in this case, by putting questions to both the complainant while recording his statement under Solemn Affirmation as well as putting question to the Enquiry Witnesses.

11. Under such circumstances, keeping in view the limited scope for interference with an order of issuing process in exercise of power under Section 482 of CrPC, this Court is of the considered view that this is not a fit case, where the prayer as prayed for by the petitioner in this Criminal Miscellaneous Petition, is to be allowed in exercise of its power under Section 482 of CrPC.
12. Accordingly, Criminal Miscellaneous Petition being without any merit is dismissed.

**(Anil Kumar Choudhary, J.)**

High Court of Jharkhand, Ranchi  
Dated, the 22<sup>nd</sup> April, 2025  
Smita / AFR