

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 1712 of 2025

1. M/S Hinduja Leyland Finance Limited hereinafter referred to as "the Company" incorporated under the provisions of the Indian Companies Act 1956, having its Registered Office at 27A, Developed Industrial Estate, Guindy, PS-Guindy, PO Guindy, Dist Chennai, State Tamil Nadu-600032
2. Director, Hinduja Leyland Finance Limited, at 27A, Developed Industrial Estate, Guindy, PS-Guindy, PO Guindy, Dist Chennai, State Tamil Nadu-600032
3. The Branch Manager, Hinduja Leyland Finance Limited, at Hinduja Leyland Finance Limited, Mahavir Tower, 4th Floor Itki Road, PO Hehal, PS Sukhdeo Nagar, Dist Ranchi

All through their authorised representative Mr Nikhil Kumar Ojha aged about 30 years S/o Sri Dinesh Kumar Ojha, working for gain at Hinduja Leyland Finance Limited, Mahavir Tower, 4th Floor Itki Road, PO Hehal, PS Sukhdeo Nagar, Dist Ranchi Petitioners

Versus

1. The State of Jharkhand
2. Wakil Singh aged about 54 years S/O Shivpujan Singh R/O Basant Vihar Colony, Ravi Steel, Pandra, PO & PS Pandra, dist Ranchi. Opposite Parties

For the Petitioners	: Mr. Bharat Kumar, Adv.
For the State	: Mr. Rakesh Ranjan, Addl. PP
For the O.P. No. 2	: Mr. Santosh Kr. Tiwari , Adv. Mr. Shashank Shekhar Prasad , 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 528 of BNSS, 2023 with the prayer for quashing and setting aside the entire criminal proceeding as well as the order taking cognizance and the summoning order dated 05.08.2023 passed in connection with Complaint Case no. 787 of 2016 by which, learned JMFC, XXVII, Ranchi found the *prima facie* case for the offences punishable under Section 323, 379, 504 and 506 of IPC against the petitioners.

3. The brief fact of the case is that on 21.09.2013, the complainant got 12 wheeler vehicle financed from the petitioner no. 1 and on 02.03.2015, the said vehicle was seized with the coal loaded in the vehicle. Sanjay Singh- the staff and Vikash Kumar- Branch Manager, stopped the vehicle, did *marpit* with the driver, snatched away Rs. 50,000/- from him and also snatched away the vehicle. On the basis of the complaint, the statement of the complainant on Solemn Affirmation and the statement of the inquiry witnesses, learned JMFC, Ranchi found the *prima facie* case.
4. Learned counsel for the petitioners relying upon the judgment of this Court in the case of **ATC Telecom Infrastructure Private Limited vs. The State of Jharkhand** reported in **2025 Supreme (Jhk) 988**, submits that in that case, this Court relied upon the judgment of a co-ordinate Bench of this Court in the case of **Suma Devi vs. The State of Jharkhand & Ors. in Cr.M.P. No. 741 of 2016**, paragraph no.27 of which reads as under:-

"27. In the case in hand, Bharat Coking Coal Limited – a Company incorporated under the Companies Act, is not an accused and no allegation has been attributed against the Company. The accused are :- (1) Chief Manager, B.C.C.L., Kusunda Area; (2) Project Officer, B.C.C.L., Godhar Colliery; (3) Deputy Personnel Manager, B.C.C.L., Godhar Colliery; (4) Chief Office Clerk, B.C.C.L., Godhar Colliery; against whom summons have been ordered to be issued. Since these are the post/designation of the employees of the Company, they are neither a natural or juridical person. Further, the I.P.C. does not attribute any personality to these posts. That being the position, they cannot be summoned to face trial independently. It is pertinent to mention here that the juridical person, i.e., the Company B.C.C.L. is not an accused in the complaint case."

Wherein the coordiante Bench of this Court has reiterated the settled principle of law that summons in a criminal case cannot be issued to a post without mentioning the name of the person who is holding the post; as a post is not a juristic person.

5. Learned counsel for the petitioners next relying upon the judgment of the Hon'ble Supreme Court of India in the case of

Sanjay Dutt and Others vs. State of Haryana and Another reported in **2025 SCC Online SC 32** submits that therein the Hon'ble Supreme Court of India has held that whenever by a legal fiction, the principle of vicarious liability is attracted and a person who is otherwise not personally involved in the commission of an offence is made liable for the same, it has to be specifically provided in the statute concerned. It is next submitted that the petitioners are not involved personally in the commission of the alleged offence and in the absence of any provision of vicarious liability in the IPC, learned Magistrate has committed grave illegality in passing the summoning order against the petitioner.

6. It is next submitted by learned counsel for the petitioners relying upon the judgment of this court in the case of **Ruchika Kakar through his Power of Attorney holder Devadatta Parshuram Dalvi vs. State of Jharkhand and Another** reported in **2024 SCC Online Jhar 1769** that therein, in para 7, this Court relied upon the judgment of the Hon'ble Supreme Court of India in the case of **Ravindranatha Bajpe vs. Mangalore Special Economic Zone Ltd. & Ors.** reported in **(2022) 15 SCC 430**, wherein, the Hon'ble Supreme Court of India relied upon its judgment in the case of **Sunil Bharti Mittal Vs. CBI** reported in **(2015) 4 SCC 609** paragraph no.43 of which reads as under:-

"43. Thus, an individual who has perpetrated the commission of an offence on behalf of a company can be made an accused, along with the company, if there is sufficient evidence of his active role coupled with criminal intent. Second situation in which he can be implicated is in those cases where the statutory regime itself attracts the doctrine of vicarious liability, by specifically incorporating such a provision."

and submits that it is a settled principle of law as has been held in the case of **Sunil Bharti Mittal Vs. CBI (Supra)** that for an individual to be made an accused on the allegation that he has perpetrated the commission of any offence on behalf of the company, there has to be sufficient evidence of his active role coupled with criminal intent and the second situation in which he

can be implicated is in those cases where the statutory regime itself attracts the doctrine of vicarious liability, by specifically incorporating such a provision.

7. It is next submitted that the allegation against the petitioners are false and even if the entire allegations made against the petitioners in the complaint, the statement of the complainant on Solemn Affirmation and the statement of the inquiry witnesses, are considered to be true in their entirety, still none of the offence in respect of which, *prima facie* case has been found against the petitioners, is made out against the petitioners, hence, it is submitted that the prayer as made in this criminal miscellaneous petition be allowed.
8. Learned Addl. PP and learned counsel for the Opp. Party no. 2 on the other hand vehemently oppose the prayer of the petitioners and submits that if the allegations made against the petitioners in the complaint, the statement of the complainant on Solemn Affirmation and the statement of the inquiry witnesses, are considered to be true in their entirety, then all the offences in respect of which learned Magistrate found the *prima facie* case, are in fact made out against the petitioners and submits that this Criminal Miscellaneous Petition being without any merit, be dismissed.
9. Having heard the submissions made at the Bar and after going through materials available in the record, it is pertinent to mention here that it is a settled principle of law that summons in a criminal case cannot be issued to a post without mentioning the name of the person who is holding the post, hence, this court has no hesitation in holding that certainly learned JMFC, XXVII, Ranchi has committed a grave illegality by issuing summons against the petitioner nos. 2 and 3 by their post, without mentioning the name of the person, hence, this court has no hesitation in holding that continuation of this criminal proceeding against the petitioner no. 2 and 3 will amount to abuse of process of law. Therefore, this is a fit case where the entire criminal

- proceeding as well as the order taking cognizance and the summoning order dated 05.08.2023 passed in connection with Complaint Case no. 787 of 2016 be quashed and set aside *qua* the petitioner nos. 2 and 3 only.
10. Accordingly, the entire criminal proceeding as well as the order taking cognizance and the summoning order dated 05.08.2023 passed in connection with Complaint Case no. 787 of 2016, is quashed and set aside *qua* the petitioner nos. 2 and 3 only.
11. In the result, this Criminal Miscellaneous Petition is allowed to the aforesaid extent only and in view of the disposal of this Criminal Miscellaneous Petition, the pending interlocutory application, if any, is disposed of being infructuous.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated, the 17th August, 2026
Smita / AFR

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