

District Palamau

CNR No. JHPL03-003515-2016.

In the court of Chief Judicial Magistrate, Palamau

Present - Manoranjan Kumar -II
C.J.M., Palamau.

Daltonganj, dated the 23rd day of July, 2026.

G.R. Case No. 2147 of 2016
Trial No. 94 of 2026

The State of Jharkhand ----- Prosecution.

Vrs.

Raju Prasad @ Rajiv Prasad s/o Late Jugal Sao, a/a 48 years
R/O Harihargaj, PS Hariharganj, District Palamau.

.....Accused.

(Charges u/s 406, 420, 120B IPC)

Counsel

For the Prosecution : Sri Dilip Kumar Singh, Ld. APP.

For the Defence : Sri Murari Prasad, Ld. Advocate.

JUDGMENT

1. The above name accused stands charged u/s 406, 420, 120B of the IPC and has faced trial for the same.

2. The prosecution case in brief is that on 15.12.2016, the Officer-in-charge, Harihargaj P.S. received the application with allegation of the informant Kumari Shweta, the Supervisor in CDPO Office, Hariharganj to the effect that during inspection the Child Development Project Officer, Hariharganj has found 154 sacks of RTE (Right of Children to Free & Compulsory Education) from the under-construction house of Rajiv Prasad Gupta situated behind Hariharganj Bajar, which has been seized properly and is kept in the office of the CDPO, in relation to which she has been directed vide the Memo No. 233 dated 14.12.2016 of the Child Development Project Officer, Hariharganj to institute FIR against Rajiv Prasad Gupta s/o Jugal Prasad Gupta, so FIR may be instituted in the matter.

3. On the basis of the aforesaid application, Hariharganj P.S. Case No. 101 of 2016 dated 15.12.2016 u/s 420, 406, 120B, 34 of the IPC was registered and

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investigation was taken up. On completion of investigation, the IO submitted charge-sheet No. 19 of 2017 dated 31.03.2017 u/s 420, 406, 120B of the IPC against the accused before the then PO, who was pleased to take cognizance of the same and kept the case in personal file for trial and disposal.

4. On appearance of the accused, complying section 207 of the Cr.P.C. and hearing the parties, charges of the offences punishable u/s 406, 420, 120B of the IPC were framed, read-over & explained to him in Hindi to which he did not plead guilt and claimed to be tried for the same.

5. On conclusion of the prosecution evidences, statement of the accused was recorded u/s 313 CrPC, in which he has denied the prosecution evidence and has pleaded him to be innocent.

6. Heard arguments. It was submitted by the learned defence counsel that six out of ten prosecution witnesses have not supported the case of prosecution. Pw1 who is seizure witness has not supported any recovery or seizure before him. the second seizure witness Pw5 has though claimed that the informant had recovered and seized the alleged article from the alleged house of the accused, but informant Pw6 has not supported any recovery or seizure by her at the alleged place of occurrence, but has stated that the same was done by one CDPO Sanchita Bhagat, who has not been examined by the prosecution to support any such recovery or seizure by her. Even the seizure list has not been proved. The IO has only recorded statements of the witnesses who have not supported taking place of any occurrence before them and has not recorded the statement of the person of the surrounding of the PO and so, he cannot be held having made proper investigation. In this way there is nothing on record to establish and prove the case of prosecution and to connect the accused with the same, so the accused may be acquitted of the charges. On the other hand it was submitted by the ld. APP that Pw5, the informant Pw6 & the IO Pw10 have fully supported the case and the accused may be convicted and sentenced for the charges.

7. Now, the only question for determination in the present case is, whether the prosecution has been able to substantiate the charges against the accused beyond the reasonable doubts or not.

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FINDINGS

8. In order to prove its case beyond doubts, the prosecution has examined ten witnesses in all, who are Pw1 Muslim Ansari, Pw2 Santosh Prasad Gupta, Pw3 Sunil Choudhary, Pw4 Pankaj Choudhary, Pw5 Md. Ajan Rizwi, Pw6 Kumari Shweta, Pw7 Hira Prasad, Pw8 Shambhu Prasad Sharma, Pw9 Satyendra Kumar Gupta & Pw10 Sanjay Kumar Nayak.

Pw1 Muslim Ansari has identified his signature as witness on the seizure list dated 14.12.2016 of Hariharganj PS Case No. 101 of 2016, which has been marked as Ext. 1. He has further stated in his cross examination having put his signature on plain paper on saying of the Officer in charge and he has no any knowledge about the occurrence.

Pw2 Santosh Prasad Gupta, Pw3 Sunil Choudhary, Pw4 Pankaj Choudhary & Pw7 Hira Prasad @ Ravi Kant Kumar and Pw9 Satyendra Prasad Gupta have deposed having no knowledge about the occurrence and police had not inquired from them. They have been declared hostile and have further denied the suggestion of the prosecution that they have stated before the police that nourishment of RTE (Right of Children to Free & Compulsory Education) was recovered from the newly constructed house of accused Raju Prasad Gupta.

Pw5 Md. Azam Rizwi has deposed that on 14.12.2016 at about 12-1 PM when he was going from home towards block and reached near the house of Rajiv Gupta, he saw there CDPS Shweta Tiwari with police and 154 sack of 18 kg each of the nourishment (daliya) to be provided to the children of Anganbadi, was seized from the house of Raju Prasad Gupta. The police took his signature there on the seizure list & he put his signature by reading the same. On his identification his signature has been marked as Ext. P-1/1/Pw5. He has further stated in his cross examination that his statement was held on 14.12.2016 at about 1 PM of which day is not in his memory. He cannot tell the khata plot of the place of occurrence of which he did not see document. The seizure list was prepared at the place of occurrence. There were many general public of whom he cannot tell names. The sack was weighed before him through balance and weight, but he cannot say that who brought the same. Weight was done through 20 kg weight and 2 kg weight. He cannot tell the name of the officer or staff who weighed the same. Rajiv Gupta has kirana and general store at Hariharganj market which opens from morning to evening but he not knows that on what time he closes his shop. He cannot tell where the nourishment is kept and the same is not in court. He had not seen by opening any
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any sack that what is in the same. Seizure list was prepared in three sheets by police, but he cannot tell name of the person who prepared the same.

Pw6 Kumari Shweta who is the informant and has deposed that she was Supervisor in Hariharganj on 14.12.2016 and was directed to institute case against Raju Prasad Gupta vide a memo No. 234 dated 14.12.2016 then CDPO Hariharganj Sangeeta Bhagat. Raju Prasad Gupta had kept 154 sack RTE packet in his under-construction house situated behind Hariharganj market, which was seized by the CDPO during inspection and kept in his godown of Child Development Project. Accordingly, FIR was instituted by her in writing and signature. On her identification her application has been marked as P-2/Pw6. She has further stated in her cross examination that no any article was recovered before her and she had lodged FIR only on direction of Sangeeta Bhagat. Her statement was held before police on next day of FIR. She has no knowledge about the khata plot from which articles were recovered. She had lodged case only on direction of higher official and she has no specific knowledge about the occurrence.

Pw8 Shambhu Prasad Sharma is the second IO and has deposed that he was given charge of investigation of this case on 04.03.2017 and he perused the case diary of earlier investigation and receiving the final progress report, on the basis of the earlier taken statements of the informant and witnesses, place of occurrence inspected by prior IO and finding the case to be true, he submitted charge sheet.

He has further stated in his cross examination that he had not taken statement of any witness and had not inspected the place of occurrence. He had also not taken defence statement of the accused. Whom he knows for his being a shopkeeper. He has submitted charge sheet as per direction of the higher officer.

Pw10 Sanjay Kumar Nayak is the IO and has deposed having given charge of investigation of this case on 14.12.2016 and perusing the FIR and seizure list he mentioned it in case diary and then recorded re-statement of the informant and inspected the place of occurrence which is the newly constructed three storied house of the accused Raju Prasad Gupta situated at 1 KM South-West from the Hariharganj PS, having in its boundary house of Sanjay Choudhary in East, barren land of Hira Prasad and half constructed house in West, barren land of Suraj Prasad in North and barren land of Naresh Prasad under boundary in South. Then he recorded statements of seizure list witnesses Muslim Ansari & Ajam Rizwi who supported the occurrence. Thereafter, he recorded statements of witnesses Santosh Prasad, Sajendra Prasad, Pankaj Choudhary, CDPO, Hariharganj Sangeeta Bhagat

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and independent witnesses Hira Prasad & Sunil Choudhary who all supported the occurrence. Thereafter on his transfer, he handed over charge of investigation to the then O/c Hariharganj on 21.01.2017. On his identification, case registration endorsement and the formal FIR have been marked respectively as Exts. P-2/1/Pw10 & P-3/Pw10. He has further stated in his cross-examination that FIR has been instituted at 16:30 hours on 14.12.2016, but he has not mentioned in diary that at which time he had taken charge of investigation. He has not mentioned date under para 7 about inspection of the place of occurrence and that in presence of which witnesses he inspected the same. He has not taken statement of any person of the boundary of the place of occurrence. He has not mentioned date against the para of statement of each witness. He has not recorded statement of the accused. He has not mentioned the khata plot of the place of occurrence. He has neither collected any document in relation to the house of Raju Gupta nor has mentioned it in case diary. The formal FIR was not typed and the registration and endorsement was not made before him. Ajam Rizwi had not told him in his statement that he was going towards block from home through the house of Raju Prasad Gupta and when he went there he saw that CDPS Shweta Tiwari and police were there.

9. Now, having consideration to the submissions, it is quite apparent that the charges of the offences u/s 406, 420, 120B of the IPC are under consideration in this case. In order to prove the charges of the offence punishable u/s 420 of the IPC, the prosecution has to prove on record, that the accused deceived and thereby fraudulently and dishonestly induced someone to deliver any property to him or any other person, or to make, alter or destroy the whole or any part of a valuable security or anything which is signed or sealed and which is capable of being converted into a valuable security under such deception or false representation.

Now, it is evident from perusal of the above discussed versions of the prosecution witnesses that in the present case lodged with allegation that during inspection the Child Development Project Officer, Hariharganj found 154 sacks of RTE (Right of Children to Free & Compulsory Education) kept in the under-construction house of the accused Rajiv Prasad Gupta, which he was not entitled to keep.

But all the local witnesses i.e. Pw2, Pw3, Pw4, Pw7 & Pw9 have not supported the case of prosecution but, have stated hostile to the prosecution having

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no knowledge of the occurrence and that they were not present there at the time of occurrence. The case relates to recovery of RTE food grain in relation to which the informant has herself stated during her examination as Pw6 that no any article was recovered before her and she has lodged this case only as per order of the CDPO Sanchita Bhagat and the alleged articles were seized by Sanchita Bhagat and were kept in godown of CDP godown. The said CDPO Sanchita Bhagat has not come to support any such seizure by her and the prosecution has not bothered to examined her. One of the alleged seizure witness Pw1 Muslim Ansari has though identified his signature on seizure list, but has further stated having put his signature on saying of the officer in charge on a plain paper and he has no knowledge of any occurrence. The next seizure witness Md. Azam Rizwi has though stated having seen the CDPO Sweta Tiwari and the police at the said house of Raju Gupta were the alleged 154 sacks of RTE and has identified his signature on seizure list, as discussed above, the said Pw6 Sweta Tiwari has herself not supported her presence at the PO and any such recovery before her. In this way the seizure list has also not been proved on record by examining the said CDPO Sanchita Bhagat who prepared the same. The IO Pw10, who has deposed having recorded the statement of informant and witnesses and inspected the place of occurrence has also not bothered to record statement of the said CDPO Sanchita Bhagat who allegedly made the said recovery and seizure. He has also not recorded statement of the persons of the surrounding of the place of occurrence and has also not inquired about the house whether it belonged to the accused or not.

In this way in this case based on the alleged recovery and seizure, where the prosecution has even not able to prove the seizure list and the alleged CDPO who allegedly seized the alleged articles, has not examined and accordingly not come to support any such recovery or seizure by her, nothing can be arrived that the accused received anything by inducing the informant or any other under any false representation or deception committed by him and so, there is nothing on record to give home to the charges u/s 420 of the IPC.

Again, it is quite clear from the FIR and the testimonies of the examined prosecution witnesses that nothing has been alleged or proved on record that anything was given to the accused voluntary under trust and which he used for his own benefit or taken the same in own use. So, nothing is there on the record to give home to the charges u/s 406 of the IPC. Also, there is nothing on record that the accused hatched any conspiracy with some other or others and agreed to do any

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offence. Hence, no any material evidence is there on record to prove any criminal conspiracy to give home to the charges u/s 120B of the IPC.

10. Thus, from the facts and circumstances of the case and on the basis of the above made discussions on the evidences on record, I come to the conclusion that the prosecution has not been able to substantiate the charges u/s 406, 420, 120B of the IPC leveled against the accused beyond all the reasonable doubts. So, I find and hold the accused not guilty of the said charges and accordingly, the accused Raju Prasad @ Rajiv Prasad is hereby acquitted from the charge u/s 406, 420, 120B of the IPC. He and his bailors are also discharged from the liabilities of his bail bond.

Dated this 23.07.2026

Dictated

Sd/-
(Manoranjan Kumar-II)
C.J.M., Palamau

Corrected, dated and delivered by me in the open Court and sealed in my presence with the Court Seal.

Sd/-
(Manoranjan Kumar-II)
C.J.M., Palamau

Uploaded on
23.07.2026