



2026:CGHC:10225-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPCR No. 100 of 2026

Umesh Kumar Nirmalkar S/o Pawan Kumar Nirmalkar Aged About 32 Years R/o Nayapara Ward No. 4, Near Sharda Mandir, Mahasamund, District- Mahasamund (C.G.)

... **Petitioner**

versus

1 - State of Chhattisgarh Through The Secretary, Department of Home, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nava Raipur, District- Raipur (C.G.)

2 - Director General of Police Raipur, District- Raipur, Chhattisgarh

3 - Superintendent of Police Mahasamund, District- Mahasamund (C.G.)

4 - Station House Officer Police Station- Mahasamund, District- Mahasamund (C.G.)

... **Respondents**

(Cause-title taken from Case Information System)

For Petitioner	:	Dr. Arpit Lall, Advocate
For Respondents-State	:	Mr. Shaleen Singh Baghel, Government Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

27.02.2026

- 1 Heard Dr. Arpit Lall, learned counsel for the petitioner as well as Mr. Shaleen Singh Baghel, learned Government Advocate, appearing for the State/respondents.



- 2** The petitioner has filed this writ petition praying for following reliefs:-

“10.1 That, this Hon'ble Court may kindly be pleased to quash the First Information Report bearing Crime No. 42/2022 registered at Police Station Mahasamund, District Mahasamund (C.G.) and Charge Sheet/Final Report bearing No. 132/2022 and order taking cognizance dated 13.05.2022 for the offence under Section 420, 467, 468, 471 of IPC and filed before CJM, subsequent criminal proceedings Mahasamund (C.G.).

10.2 That, this Hon'ble Court may kindly be pleased to pass an order whereby the complainant may kindly be directed to pay the petitioner a sum of Rs. 5,00,000/- as compensation for mental harassment and lodging false FIR against the petitioner with malafide intention.

10.3 That, this Hon'ble Court may kindly be pleased to grant any other relief/reliefs in favour of the petitioner, which the Hon'ble Court deemed fit & just in the facts and circumstances of the case, including awarding of the costs to the petitioner.”

- 3** Brief facts of the case are that the complainant, Dharmendra Mahobiya, was working as a Senior Business Associate in LIC and had engaged the present petitioner, Umesh Kumar Nirmalkar, to work in his office. As per the prosecution case, on 17.12.2021 it was alleged that the petitioner had collected policy premium amounts from certain customers but did not deposit the same in the LIC office and instead misappropriated the amount for his personal use. It is further alleged that the petitioner prepared false



receipts in the name of the complainant, affixed a forged seal thereon and issued such receipts to the policy holders. On the basis of the said allegations, an FIR was lodged against the petitioner for offences punishable under Sections 420, 467, 468 and 471 of the IPC, and after completion of investigation, charge-sheet has been filed.

- 4 According to the petitioner, however, he was primarily performing clerical and computer-related duties such as maintaining office registers and assisting in data entry work. It is his case that he had limited access to the computer system and that the main control, including the passcode required for depositing premium amounts, was exclusively with the complainant. The premium amounts were allegedly transferred directly by customers to the complainant's bank account through NEFT, and the petitioner merely maintained entries as reflected in the account details. The petitioner asserts that upon his refusal to make certain false entries in the register at the instance of the complainant, he was threatened and subsequently falsely implicated in the present case. During investigation, only three registers and one pen drive were seized from him and no forged seal or fabricated receipt book was recovered.
- 5 Hence, the petitioner has approached this Court seeking quashment of the FIR, charge-sheet and all consequential proceedings.



- 6 Learned counsel for the petitioner submits that the lodging of the impugned First Information Report against the petitioner is nothing but a result of mala fide intention and a well-orchestrated conspiracy to falsely implicate him with an ulterior motive of wreaking vengeance.
- 7 It is contended that the criminal machinery has been set into motion not on account of any genuine criminal act, but to pressurize and harass the petitioner. It is further submitted that even if the entire allegations made in the FIR and the charge-sheet are taken at their face value, the essential ingredients of the offences under Sections 420, 467, 468 and 471 of the IPC are not attracted in the facts of the present case.
- 8 Learned counsel places reliance upon the recent decision of the Hon'ble Supreme Court in ***Jupally Lakshmikantha Reddy v. State of Andhra Pradesh and another, SLP (Crl.) No.9744/2024***, wherein the essential ingredients of the offence of cheating have been reiterated. It is submitted that to constitute an offence under Section 420 IPC, there must be (i) deception of a person by making a false representation which the accused knows or has reason to believe to be false, and (ii) fraudulent or dishonest inducement to deliver property or to consent to retention of property, or intentional inducement to do or omit to do something which causes or is likely to cause damage or harm. He submits that in view of Sections 23, 24 and 25 IPC, "dishonestly"



requires an intention to cause wrongful gain or wrongful loss, and “fraudulently” requires an intent to defraud. Reading these definitions in conjunction with Section 415 IPC, it is evident that intention at the inception of the transaction is the sine qua non for attracting the offence of cheating. In the present case, no such dishonest or fraudulent intention at the inception has been alleged or demonstrated.

- 9 Reliance is further placed upon the judgment of the Hon’ble Supreme Court in ***Dr. Sharma's Nursing Home v. Delhi Administration and others, (1998) 8 SCC 745***, wherein it has been held that mere deception by itself would not constitute cheating unless dishonest inducement is established. It is argued that in the present case, the prosecution has merely alleged deception without establishing any material to show deliberate intention to cause wrongful gain or wrongful loss.
- 10 Learned counsel also relies upon ***Hridaya Ranjan Prasad Verma and others v. State of Bihar and another, (2004) 4 SCC 168***, wherein it has been categorically held that intention is the gist of the offence under Section 420 IPC and that such intention must exist at the time when the representation is made. In the absence of any material to show that the petitioner intentionally submitted any fake transaction receipt with the intent to induce delivery of property, the basic ingredient of dishonest inducement is conspicuously absent.



- 11 With regard to the offences under Sections 467, 468 and 471 IPC, learned counsel submits that the prosecution has failed to establish that the petitioner made any forged document or had knowledge of the alleged forgery. Placing reliance on ***Sheila Sebastian v. R. Jawaharaj and another, (2018) 7 SCC 581***, it is contended that to attract Section 464 IPC, it must be shown that the accused himself made the false document. In the present case, no material has been placed on record in the charge-sheet connecting the petitioner with the preparation of any forged document. Similarly, the essential mens rea required for Sections 468 and 471 IPC has not been demonstrated. It is further submitted that the alleged premium transactions were carried out electronically and directly through banking channels, and there is no material to show wrongful gain to the petitioner or wrongful loss to the complainant by unlawful means.
- 12 Learned counsel lastly relies upon the decision of the Hon'ble Supreme Court in ***Haji Iqbal v. State of Uttar Pradesh and others, 2023 SCC OnLine SC 946***, wherein it has been held that while exercising jurisdiction under Section 482 CrPC or Article 226 of the Constitution, the High Court must carefully scrutinize the FIR in cases where allegations of mala fides and ulterior motive are raised. The Court is duty-bound to examine not merely the language of the FIR but also the attending circumstances to ascertain whether the prosecution is manifestly frivolous or



vexatious.

- 13** In view of the aforesaid legal position, learned counsel submits that the FIR, the charge-sheet, the order taking cognizance and all consequential proceedings are an abuse of the process of law and are liable to be quashed in exercise of inherent and extraordinary jurisdiction of this Court.
- 14** Per contra, learned State counsel submits that the allegations against the accused are serious in nature and disclose commission of cognizable offences involving financial fraud and forgery affecting a large number of LIC policyholders. It is submitted that the complainant, Dharmendra Mohbia, Development Officer, Life Insurance Corporation of India, Mahasamund, lodged a written complaint on 29.12.2021 before the Station House Officer, Mahasamund, alleging that the accused, Umesh Kumar Nirmalkar, had embezzled premium amounts collected from customers and had issued fake premium receipts in his own name. During investigation, it was revealed that a total amount of Rs. 7,43,975/- collected towards policy premiums was not deposited with LIC and was misappropriated, thereby causing financial loss to the policyholders and agents.
- 15** Learned State counsel submits that during the course of investigation, as many as 49 receipts allegedly issued by the accused to the premium holders were seized and verified from LIC, Mahasamund. Statements of policyholders and concerned



agents were recorded. Bank account details of the accused were obtained to trace the financial transactions. The handwriting and signatures appearing on the impugned receipts were sent for forensic examination by a handwriting expert, and the computer system and other electronic devices allegedly used by the accused were sent to the cyber forensic laboratory for analysis. Thus, the investigation was conducted in a comprehensive and scientific manner. It is further submitted that upon completion of investigation, sufficient material was found establishing prima facie involvement of the accused in the offences alleged, and accordingly charge-sheet No. 132/22 dated 12.05.2022 was filed before the competent Court after due verification by the District Prosecution Officer. The accused was arrested on 17.02.2022 and subsequently remanded to judicial custody.

- 16** Learned State counsel submits that after filing of the charge-sheet, the case was fixed for appearance of the accused. However, on 27.10.2022, in absence of the accused as well as his counsel, arrest warrant was issued against him. Thereafter, from 27.10.2022 till 28.06.2025, the accused remained absent and did not appear before the trial Court. Repeated arrest warrants have been issued through the Superintendent of Police, but the execution/non-execution reports have not yielded the presence of the accused before the Court. It is contended that the conduct of the accused clearly demonstrates that he is absconding and



deliberately avoiding the process of law. Despite adequate efforts made by the prosecution and the police authorities, there is no likelihood of securing his presence in the near future. In such circumstances, the pendency of the case is attributable solely to the conduct of the accused.

- 17** Learned State counsel submits that the materials collected during investigation, including documentary evidence, seized receipts, bank records, and statements of witnesses, clearly disclose commission of offences under the relevant penal provisions. The charge-sheet has been filed after due application of mind and there is sufficient prima facie material to proceed with the trial. The issues raised by the accused pertain to disputed questions of fact, which cannot be adjudicated in proceedings seeking quashment and are matters to be tested during trial. It is therefore prayed that no interference is called for at this stage and the petition seeking quashment of proceedings deserves to be dismissed.
- 18** We have heard learned counsel for the parties at considerable length and have given our thoughtful consideration to the rival submissions advanced. We have also perused the material placed on record, including the FIR, the charge-sheet and the documents relied upon by the prosecution.
- 19** At the outset, it must be reiterated that the power of this Court under Article 226 of the Constitution of India to quash criminal



proceedings is extraordinary, equitable and discretionary in nature. Such power is to be exercised sparingly, with circumspection, and only where the Court is satisfied that the allegations, even if taken at their face value, do not disclose the commission of any offence or that the proceedings are manifestly attended with mala fide and amount to abuse of the process of law. It is equally well settled that this Court, at this stage, cannot appreciate evidence, adjudicate disputed questions of fact, or conduct a mini-trial.

- 20** In the case at hand, the allegations levelled against the petitioner are grave in nature, involving misappropriation of premium amounts collected from policyholders and issuance of receipts allegedly bearing forged seal and signatures. During investigation, statements of policyholders were recorded, receipts were seized and verified from LIC, bank account details were called for, and disputed handwriting and electronic devices were sent for examination. Upon completion of investigation, the competent authority found sufficient prima facie material and filed the charge-sheet. At this stage, this Court is only required to see whether such material discloses the basic ingredients of the alleged offences.
- 21** Upon perusal, it cannot be said that the prosecution case is so absurd or inherently improbable that no offence is made out. The defence put forth by the petitioner that he had limited access to



the computer system, that transactions were directly credited to the complainant's bank account, that no forged seal was recovered from his possession, and that he has been falsely implicated due to personal animosity are all matters requiring evidence and adjudication during trial. These are disputed questions of fact which cannot be conclusively determined in proceedings under Article 226 of the Constitution of India.

- 22** More importantly, the conduct of the petitioner assumes significant relevance. The record indicates that after filing of the charge-sheet, the petitioner failed to appear before the trial Court. Non-bailable warrants were issued to secure his presence. Despite repeated issuance of warrants through the Superintendent of Police, the petitioner did not appear before the Court and the execution/non-execution reports reflect that his presence could not be secured. It has also been brought on record that a *farari panchnama* has been prepared against the petitioner, reflecting that he is absconding and evading the process of law.
- 23** Thus, the petitioner is not only facing serious criminal allegations but is also an absconder against whom coercive processes have been initiated. A person who has deliberately avoided appearing before the trial Court and against whom warrants and *farari* proceedings have been drawn cannot, as a matter of course, invoke the extraordinary jurisdiction of this Court seeking equitable relief.



- 24** The discretionary jurisdiction of this Court is not meant to shield a litigant who is in defiance of the judicial process. The pendency of warrants and preparation of *farari panchnama* unmistakably indicate that the petitioner has not submitted to the jurisdiction of the trial Court. In such circumstances, interference at his instance would not only be legally unwarranted but would also undermine the sanctity of the judicial process.
- 25** Having regard to the totality of the circumstances, we are of the considered opinion that the petitioner has failed to establish that the impugned FIR, charge-sheet or consequential proceedings suffer from any patent illegality or constitute abuse of the process of law so as to warrant interference. On the contrary, the material on record discloses prima facie commission of cognizable offences, which must be examined and adjudicated in the course of trial.
- 26** Accordingly, the petition, being devoid of merit, is hereby **dismissed**.
- 27** It is made clear that any observations made herein are only for the purpose of deciding the present petition and shall not influence the trial Court while adjudicating the matter on its own merits, strictly in accordance with law.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice