



2026:CGHC:3845



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRMP No. 1988 of 2024

Shri Mahendra Jain S/o Late A.K. Jain, Aged About 51 Years Proprietor M/s Mahendra Enterprises, R/o C-187, Sector-5, Near Dr. G.B Gupta, Tagore Nagar, P.S. Civil Lines, Raipur (C.G.)

... **Petitioner**

versus

Santosh Kumar Sahu S/o Shri Mishrilal Sahu, Aged About 45 Years Proprietor, Yug Chetna Medical Stores, Gotatola, P.S. Mohla, Tahsil Mohla, District Rajnandgaon (C.G.)

... **Respondent**

For Petitioner	:	Mr. Pravin Kumar Tulsyan, Advocate.
For Respondent	:	Mr. J.K.Gupta and Mr. Sudeep Johri, Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice

Order on Board

22.01.2026

1. Heard Mr. Pravin Kumar Tulsyan, learned counsel for the petitioner. Also heard Mr. J.K. Gupta and Mr. Sudeep Johri, learned counsel appearing for the respondent.
2. The present petition has been filed by the petitioner with the following prayer:

"It is therefore, prayed that the Hon'ble Court may be pleased to set aside the impugned order dated 13.02.2020 (Annexure P-1), passed by the learned J.M.F.C. Ambagarh Chowki (C.G.), in Complaint case no.



51/2020, in the interest of justice.”

3. The prosecution case in brief is that the present petitioner and the respondent are both engaged in the business of medicines. They are proprietors of their respective firms and have longstanding business relations. The respondent purchased medicines from the petitioner on credit and, in discharge of his liability, issued a cheque bearing No. 1377678 drawn on Durg Rajnandgaon Gramin Bank, Branch Gotatola, for an amount of Rs. 6,30,498/-. The said cheque was dishonoured due to “stop payment” instructions. Consequently, the petitioner filed a complaint under Section 138 of the Negotiable Instruments Act before the Court of Judicial Magistrate First Class, Raipur (C.G.), which was registered as Complaint Case No. 75/2018. After granting due opportunity of hearing to both parties, the learned JMFC, vide order dated 30.11.2022, convicted the respondent. Aggrieved by the order dated 30.11.2022, the respondent preferred an appeal before the learned Sessions Court, which is presently pending before the learned Additional Sessions Judge, Raipur. In the meantime, with an oblique motive, the respondent also filed a criminal complaint under Section 200 of the Cr.P.C. against the petitioner, alleging that the cheque in question was obtained by fraud. The learned Judicial Magistrate First Class, Ambagarh Chowki, vide order dated 13.02.2020, registered the complaint and took cognizance of offences under Sections 420, 423, 467, 468, 469 and 471 of the Indian Penal Code against the present petitioner and issued summons.
4. Learned counsel for the petitioner submits that the impugned order is illegal, arbitrary and an abuse of the process of law. It is contended that even if the entire allegations made in the complaint are accepted at their face value, no criminal offence is made out. The dispute between the



parties is purely civil in nature arising out of a business transaction, for which criminal colour has been given only to harass the petitioner. It is further submitted that there is no allegation of dishonest intention at the inception of the transaction, which is a sine qua non for constituting an offence under Section 420 IPC. No document alleged to be forged has been produced, nor is there any material to attract the provisions of Sections 467, 468, 469 or 471 of IPC. The learned Magistrate has mechanically passed the order without application of judicial mind.

5. On the other hand, learned counsel for the respondent opposed the argument advanced by the counsel for the petitioner and supported the impugned order, contending that sufficient material was available before the Magistrate to proceed against the petitioner and further submitted that after fully applying mind the learned Judicial Magistrate First Class, Ambagarh Chowki (C.G.) passed the order dated 13.02.2020 in Complaint Case No. 51/2020, and there is no any illegality, infirmity or any jurisdictional error while passing the impugned order. Thus, the present petition is liable to be dismissed.
6. I have heard learned counsel for the parties and considered the rival submissions made hereinabove and gone through the records with utmost circumspection.
7. The scope of interference under Section 528 of the Bharatiya Nagarik Suraksha Sanhita is well settled. The High Court is empowered to prevent abuse of the process of the Court and to secure the ends of justice. Where the allegations in the complaint do not disclose the commission of any cognizable offence, or where the criminal proceedings are manifestly attended with mala fide and instituted with an ulterior motive, the same are liable to be quashed. On careful examination of the complaint and the



material placed on record, it is evident that the dispute arises out of a commercial/business transaction between the parties. There is no specific allegation demonstrating fraudulent or dishonest intention on the part of the petitioner at the inception of the transaction. Mere breach of contract or failure to honour a business commitment does not constitute an offence under Section 420 IPC. So far as the offences under Sections 423, 467, 468, 469 and 471 IPC are concerned, the complaint is conspicuously silent regarding the execution or use of any forged document. No particulars of forgery have been stated, nor has any document been identified as forged. In the absence of foundational facts, continuation of criminal proceedings would amount to misuse of the criminal justice system. The learned Magistrate has passed the impugned order in a routine and mechanical manner without appreciating the essential ingredients of the alleged offences. Taking cognizance in such circumstances amounts to abuse of the process of the Court.

8. Accordingly, this petition is **allowed**.
9. The impugned order dated 13.02.2020 passed by the Judicial Magistrate First Class, Ambagarh Chowki (C.G.) in Complaint Case No. 51/2020, taking cognizance of offences under Sections 420, 423, 467, 468, 469 and 471 of the Indian Penal Code against the petitioner, is hereby quashed, and all consequential proceedings arising thereof is hereby quashed.
10. Office is directed to send a copy of this order to the trial Court concerned for necessary information and compliance forthwith.

Sd/-
(Ramesh Sinha)
Chief Justice