



IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.34 of 2023

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1. Shri Gopi Krishna Chaubey @ Gopi Krishna Chaube, S/o Gopal Chaubey, Aged about 62 Years, Near New Bank Colony Steel Gate Saraidhela, P.O. + P.S. Saraidhela, Dist.- Dhanbad, Jharkhand 828127
 2. Shri Niraj Chaubey @ Niraj Chaube, S/o Gopi Krishna Chaubey, Aged about 39 Years, KIDZEE School, New Bank Colony Steel Gate Saraidhela, P.O. + P.S. Saraidhela, Dist- Dhanbad, Jharkhand 828127.

... Petitioners

Versus

1. The State of Jharkhand
2. Ajay Kumar Verma, S/o Shri Devendra Prasad Verma age about 38 years, Kothi O.B.C., Shakim, Sonar Bast, Bastakola, P.O. & P.S. Jhariya, District Dhanbad, Adhar No. 2349 4157 9824, Mob. No. 7979018828.

... Opposite Parties

For the Petitioners	: Mr. Ram Badan Choubey, Advocate
For the State	: Mr. Abhay Kr. Tiwari, Addl,P.P.
For the OP No.2	: Mr. Kalyan Banerjee, Advocate

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 the Code of Criminal Procedure with the prayer to quash the order dated 06.01.2020 passed



by the learned Judicial Magistrate-1st Class, Dhanbad in C.P. Case No. 2288 of 2019 whereby and where under the learned Judicial Magistrate-1st Class, Dhanbad has found sufficient materials against the petitioners to proceed against them for having committed the offences punishable under Sections 420/ 34 of the Indian Penal Code.

3. The allegation against the petitioners is that the petitioners in furtherance of their common intention, cheated the complainant by claiming to be the owner of the land of which they, knowing pretty well that they are not the owner, deceived the complainant by posing themselves as the owner of the land, induced the complainant to part with Rs.5,00,000/- to the petitioners and when the complainant went to the land concerned, the real owner of the land displayed the documents of the ownership of the land and when the complainant demanded the documents of the land of the petitioners, who claimed themselves to be the owner, the petitioners failed to produce the same and also did not pay back the cheated amount of Rs.5,00,000/-. On the basis of the complaint, the statement of the complainant on the solemn affirmation and the statement of the inquiry witnesses, the learned Judicial Magistrate-1st Class, Dhanbad found *prima facie* case against the petitioners for the offences punishable under Sections 420/ 34 of the Indian Penal Code.

4. Learned counsel for the petitioners relies upon the judgment of this Court in the case of **Ruchika Kakar vs. The State of Jharkhand & Another** passed in Cr.M.P. No. 216 of 2024 dated 8th May, 2024 and



submits that therein, this Court relied upon the judgment of the Hon'ble Supreme Court of India in the case of **Uma Shankar Gopalika vs. State of Bihar & Another** reported in (2005) 10 SCC 336, wherein the Hon'ble Supreme Court of India reiterated the settled principle of law that in order to constitute the offence of cheating, the accused person must play deception since the very inception and if the intention to cheat has developed later on, the same cannot amount to cheating.

5. Learned counsel for the petitioners next relies upon the judgment of the Hon'ble Supreme Court of India in the case of **Vijay Kumar Ghai & Others vs. State of West Bengal & Others** reported in (2022) 7 SCC 124, paragraph Nos.24 and 25 of which read as under:-

"24. This Court in G. Sagar Suri v. State of U.P. [G. Sagar Suri v. State of U.P., (2000) 2 SCC 636 : 2000 SCC (Cri) 513] observed that it is the duty and obligation of the criminal court to exercise a great deal of caution in issuing the process, particularly when matters are essentially of civil nature.

25. This Court has time and again cautioned about converting purely civil disputes into criminal cases. This Court in Indian Oil Corpn. [Indian Oil Corpn. v. NEPC India Ltd., (2006) 6 SCC 736 : (2006) 3 SCC (Cri) 188] noticed the prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. The Court further observed that : (Indian Oil Corpn. case [Indian Oil Corpn. v. NEPC India Ltd., (2006) 6 SCC 736 : (2006) 3 SCC (Cri) 188] , SCC p. 749, para 13)

"13. ... Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged."



and submits that therein, the Hon'ble Supreme Court of India relied upon its own judgment in the case of **G. Sagar Suri v. State of U.P.** reported in **(2000) 2 SCC 636** wherein it was observed that it is the duty and obligation of the criminal court to exercise a great deal of caution in issuing the process, particularly when matters are essentially of civil nature.

6. Learned counsel for the petitioners next submits that this case is a case of civil nature. Learned counsel for the petitioners then submits that the complainant could not produce any document to show the payment of Rs.5,00,000/- to the petitioners, hence, without any document, there cannot be a cheating. It is further submitted that the allegations are inherently improbable. Hence, it is submitted that the prayer as prayed for in this Criminal Miscellaneous Petition be allowed.

7. Learned Additional Public Prosecutor appearing for the State and the learned counsel for the opposite party No.2 on the other hand vehemently oppose the prayer of the petitioners made in this Criminal Miscellaneous Petition and submit that unlike the facts of the cases relied upon by the learned counsel for the petitioners, this is a clear cut case of out-and-out cheating. It is next submitted that the undisputed fact remains that the petitioners are not the owner of the land; for selling of which, they have taken Rs.5,00,000/-. It is then submitted that since from beginning, the petitioners were very much aware that they were not the owner of the land to be sold but even then by posing



themselves as the owner of the land, they have taken Rs.5,00,000/-by deceiving the complainant and thereby inducing him to part with the said amount; this goes to show that they played deception from inception. It is then submitted that the claim of the petitioners that there is no documentary evidence regarding payment of money to the petitioners is concerned, it is not a *sine qua non* that for every money transaction, there has to be a written document. It is then submitted that any fact can be proved by oral evidence also.. Hence, it is submitted that this Criminal Miscellaneous Petition, being without any merit, be dismissed.

8. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, this Court finds that there is direct and specific allegations against the petitioners that they even though are not the owner of the land concerned, by playing deception since the very inception, posing themselves to be the owner of the land have taken Rs.5,00,000/-from the complainant by inducing him to part with the said money. Thus the conduct of the petitioners of having deceived the complainant by posing themselves to be owner of the land; though they themselves were very much aware that they are not the owners of the land concerned and also induced the complainant so deceived to part with Rs.5,00,000/- by way of cheating is sufficient to constitute the offence of cheating. So far as the contention of the petitioners regarding the absence of any document to show payment of money to the petitioners, as has been



rightly submitted by the learned Addl.P.P. and the learned counsel for the opposite party No.2, it is a settled principle of law that any fact can be proved by oral evidence also. The contention of the petitioners that the allegations against them are false is at best the defence of the petitioners which the petitioner can take during the full-dress trial of the case but certainly, the same is not a ground to quash the entire criminal proceedings; as it is also a settled principle of law that no mini trial can be conducted by the High Court in exercise of its power under Section 482 of the Code of Criminal Procedure, as has been held by the Hon'ble Supreme Court of India in the case of **State of Uttar Pradesh & Another vs. Akhil Sharda & Others** reported in **2022 LiveLaw SC 594**, the relevant portion of which reads 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. In view of the discussions made above, this Court is of the considered view that this is not a fit case where the prayer of the petitioners made in this Criminal Miscellaneous Petition is to be acceded to in exercise of its power under Section 482 of the Code of Criminal Procedure.



10. Accordingly, this Criminal Miscellaneous Petition, being without any merit, is dismissed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 10th of March, 2026
AFR/ Saroj

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