

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.656 of 2020

1. Sita Ram Pansari, S/o Sunder Lal Pansari, aged about 69 years,
2. Rohit Pansari @ Rohit Kumar Pansari, S/o Ramesh Pansari, aged about 32 years,
3. Manish Sahriya @ Manish Kumar Sahriya S/o Mahendra Kumar Sahriya, aged about 30 years,
4. Mahendra Kumar Sahriya, S/o Raj Kumar Sahriya, aged about 56 years,

All R/o Transport Nagar, P.O.-Kuju, P.S.-Mandu, District-Ramgarh.

... Petitioners

Versus

1. The State of Jharkhand
2. Sunil Bansal, S/o Mohan Lal Bansal, R/o Thana Chowk, P.O., P.S. & District-Ramgarh.

... Opposite Parties

For the Petitioners	: Mr. Sidhartha Roy, Advocate
	: Mr. Abhishek Thakur, Advocate
For the State	: Ms. Amrita Kumari, Addl.P.P.
For the O.P. No.2	: Mr. Nilesch Kumar, Advocate
	: Ms. Sonal Sodhani, 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 a prayer to quash and set aside the entire criminal proceeding including the order dated 30.11.2019 passed by learned Sub-

Divisional Judicial Magistrate, Ramgarh in Complaint Case No.404 of 2017 whereby and where under the learned Sub-Divisional Judicial Magistrate, Ramgarh has found *prima facie* case for the offences punishable under Sections 420/500 & 34 of the Indian Penal Code against the petitioners and ordered for issuance of summons.

3. Learned counsel for the petitioners submits that the petitioner no.4 does not press this Cr.M.P. and seeks permission of this Court to withdraw this Cr.M.P. by the petitioner no.4 with liberty to raise all the grounds taken in this Cr.M.P. before the appropriate court at appropriate stage. Permission is accorded. This Cr.M.P. is dismissed as withdrawn with the aforesaid liberty on behalf of the petitioner no.4 namely Mahendra Kumar Sahriya.

4. So far as the petitioner nos.1 to 3 are concerned, the brief fact of the case is that the petitioner no.4 purchased coal of Rs.36,13,295/- from the complainant, but did not pay the price of same. The petitioner no.1 who is the father-in-law of the petitioner no.4 requested for three months time to pay the amount, thereafter, the petitioner no.4 told the complainant that if the complainant can get the amount due and payable to the petitioner no.4 released from J.K. Jindal, Lucknow, then the complainant can take the amount due and payable by petitioner no.4 from the said money and further the petitioner no.4 will pay the expenses for getting the money of petitioner no.4 released from J.K. Jindal, Lucknow. The complainant got the money released by spending an amount of Rs.1,56,000/- but the said amount was not given by the petitioner no.4 to the complainant rather the

petitioner no.4 published an imputation concerning the complainant intending to harm and knowing and having reason to believe that such imputations will harm the reputation of the complainant.

5. On the basis of the complaint, statement on solemn affirmation of the complainant and the statements of the enquiry witnesses, the learned SDJM, Ramgarh has found *prima facie* case as already indicated above in the foregoing paragraph of this judgment.

6. Learned counsel for the petitioners 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 LiveLaw (SC) 305** and submits that in para-30 & 31 thereof, the Hon'ble Supreme Court of India has dealt with the ingredients of the offence punishable under Section 420 of the Indian Penal Code. It is then submitted that even if the entire allegations made against the petitioner no.1 to 3 are considered to be true in their entirety still in the absence of any allegation against them of having deceived the complainant in any manner or having induced the complainant or anyone else to part with property, the offence punishable under Section 420 of the Indian Penal Code is not made out.

7. Learned counsel for the petitioners next submits that the allegation of defamation is only confined to the petitioner no.4, so there is absolutely no allegation against the petitioner nos.1 to 3 of defaming the complainant or anyone else in any manner, hence it is further submitted that since neither the offence punishable under Section 420 nor the offence under section 500 of the Indian Penal Code is made out against the petitioner

nos.1 to 3 even with the aid of Section 34 of the Indian Penal Code, hence, it is submitted that the prayer, as prayed for in the instant Cr.M.P, be allowed.

8. Learned Addl.P.P. appearing for the State and the learned counsel for the opposite party No.2 on the other hand vehemently oppose the prayer of the petitioner made in the instant Cr.M.P and submit that since the offences were committed in furtherance of common intention with the petitioner nos.1 to 3, therefore, they are also squarely liable for the acts committed by the petitioner no.4, hence, it is submitted that this Cr.M.P., being without any merit, be dismissed.

9. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, it is pertinent to mention here that it is a settled principle of law that every breach of contract would not give rise to an offence of cheating and only in those cases breach of contract would amount to cheating where there was any deception played at the very inception. If the intention to cheat has developed later on, the same cannot amount to cheating as has been held by 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 paragraph-6 of which reads as under:-

6. "Xxxx xxxx xxxx It is well settled that every breach of contract would not give rise to an offence of cheating and only in those cases breach of contract would amount to cheating where there was any deception played at the very inception. If the intention to cheat has developed later on, the same cannot amount to cheating. In the present case it has nowhere been stated that at the very inception there was any intention on behalf of the accused persons to cheat which is a condition

precedent for an offence under Section 420 IPC.” (Emphasis supplied)

10. Now, coming to the facts of the case, the admitted case of the complainant is that the petitioner no.1 to 3 were nowhere in picture when the transaction of taking coal by the petitioner no.4 from the complainant took place.

11. Under such circumstances, there being absolutely no allegation against the petitioner of either deceiving the complainant or anyone else or inducing the complainant or anyone else so deceived to part with any property, so in the absence of such essential ingredients of the offence, this Court is of the considered view that even if the entire allegations made against the petitioner nos.1 to 3 are considered to be true in their entirety still the offence punishable under Section 420 of the Indian Penal Code is not made out; even with the aid of Section 34 of the Indian Penal Code.

12. So far as the offence punishable under Section 500 of the Indian Penal Code is concerned, the same is specifically against the petitioner no.4, so there is absolutely no allegation against the petitioner no.1 to 3 having played any role in the defamation committed by the petitioner no.4 against the complainant.

13. Under such circumstances, even if the entire allegations made against the petitioners are considered to be true in their entirety still the offence punishable under Section 500 of the Indian Penal Code is not

made out against the petitioner nos. 1 to 3 even with the aid of Section 34 of the Indian Penal Code.

14. In view of the discussions made above as the offences in respect of which the *prima facie* case has been found by the learned SDJM, Ramgarh is not made out against the petitioner nos.1 to 3, hence, this Court is of the considered view that the continuation of this criminal proceeding against the petitioner Nos.1 to 3 will amount to abuse of process of law and this is a fit case where the entire criminal proceeding including the order dated 30.11.2019 passed by learned Sub-Divisional Judicial Magistrate, Ramgarh in Complaint Case No.404 of 2017, be quashed and set aside.

15. Accordingly, the entire criminal proceeding including the order dated 30.11.2019 passed by learned Sub-Divisional Judicial Magistrate, Ramgarh in Complaint Case No.404 of 2017, is quashed and set aside *qua* the petitioner Nos.1 to 3 only.

16. In the result, this Cr.M.P., stands allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 09th of July, 2026
AFR/ Abhiraj

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