

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**Cr.M.P. No.1208 of 2026**

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Gorle Lakshmi @ Lakshmi Gorle, aged about 56 years, wife of Attluri Satyanarayana Vara Prasad, resident of Flat No.GA/2, Dolphin Apartment, behind Taj Hotel, R.K. Beach Road, Visakhapatnam, P.O. Visakhapatnam, P.S. Greater Visakhapatnam, Andhra Pradesh

... Petitioner

***Versus***

1. The State of Jharkhand
  2. Nawal Kishore Agarwal, son of Late Ram Gopal Agarwal, Proprietor of M/s. Raunaq Enterprises, having its office in the Empir Building, Flat No.8B, Telephone Exchange Road, P.O. Dhanbad, P.S. Dhansar, District Dhanbad, Jharkhand ...
- Opposite Parties

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For the Petitioner : Mr. Arvind Kr. Choudhary, Advocate  
For the State : Ms. Nehala Sharmin, Spl.P.P.  
(Through V.C.)  
For the O.P. No.2 : None

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**P R E S E N T**

**HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY**

***By the Court:-*** **I.A. No.11310 of 2026**

Heard the parties.

Learned counsel for the petitioner submits that this interlocutory application has been filed for early hearing of this Cr.M.P.

Since, the hearing of this Cr.M.P. is taken up today, hence, this interlocutory application stands disposed of being infructuous.

**(Anil Kumar Choudhary, J.)**

**Cr.M.P. No.1208 of 2026**

Though notice has validly been served upon the opposite party No.2 yet no one turns up on behalf of the opposite party No.2 in spite of repeated calls.

2. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 with the prayer to quash the order taking cognizance dated 07.03.2019 passed by the learned Judicial Magistrate-1<sup>st</sup> Class, Dhanbad in C.P. Case No.719 of 2017 whereby and where under the learned Judicial Magistrate-1<sup>st</sup> Class, Dhanbad has found sufficient materials to proceed *inter alia* against the petitioner for having committed the offence punishable under Section 417 of the Indian Penal Code.

3. The allegation against the petitioner is that the petitioner along with the co-accused persons, took coal from the complainant, the payment of which was due in January, 2013. The complainant demanded his payment several times but he was *denied* payment. Then, the complainant sent a legal notice in May, 2016 and ultimately, after the limitation period for filing a criminal case for the offence punishable under section 417 of the Indian Penal Code was over, the Complaint Case No.719 of 2017 has been filed in the court of Chief Judicial Magistrate, Dhanbad on 20.03.2017.

4. Learned counsel for the petitioner submits that the allegation against the petitioner is false. It is next submitted that the complaint is

barred by time under Section 468 of the Code of Criminal Procedure and even if the entire allegations made against the petitioner are considered to be true in their entirety, still the offence punishable under Section 417 of the Indian Penal Code is not made out against the petitioner. It is also submitted that the similar prayer of the co-accused, with similar allegations, has already been allowed by this Court vide judgment dated 17<sup>th</sup> September, 2025 passed in Cr.M.P. No.2085 of 2019 reported in (2025:JHHC:29148). Hence, it is submitted that the prayer, as prayed for in this Criminal Miscellaneous Petition, be allowed.

5. Learned Special Public Prosecutor appearing for the State on the other hand vehemently opposes the prayer of the petitioner made in this Criminal Miscellaneous Petition and submits that the materials available in the record are sufficient to constitute the offence punishable under Section 417 of the Indian Penal Code. Hence, it is submitted that this Criminal Miscellaneous Petition, being without any merit, be dismissed.

6. 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 as has been held by the Hon'ble Supreme Court of India in the case of **Veer Prakash Sharma Vs. Anil Kumar Agarwal & Another** reported in (2007) 7 SCC 373 in para-8 of which, the Hon'ble Supreme Court of India has observed that when the dispute between the parties is essentially a civil dispute, non-payment or under-payment of the price of the goods by itself does not amount to commission of the offence of cheating.

7. It is also a settled principle of law 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, para-6 of which reads as under :-

*"6. Xxxxx 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)*

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 and if the intention to cheat has developed later on, the same cannot amount to cheating.

8. Now coming to the facts of the case, there is no allegation against the petitioner of playing deception since the beginning of the transaction between the parties and admittedly, the transaction between the parties is the commercial transaction and the only allegation is of under-payment of the price of the coal received by the petitioner.

9. Under such circumstances, in view of the settled principle of law, this Court is of the considered view that even if the entire allegations made against the petitioner are considered to be true in their entirety, still the offence punishable under Section 417 of the Indian Penal Code is not made out. Therefore, this is a fit case where the order taking cognizance dated 07.03.2019 passed by the learned Judicial Magistrate-

1<sup>st</sup> Class, Dhanbad in connection with C.P. Case No.719 of 2017, be quashed and set aside *qua* the petitioner named above.

10. Accordingly, the order taking cognizance dated 07.03.2019 passed by the learned Judicial Magistrate-1<sup>st</sup> Class, Dhanbad in connection with C.P. Case No.719 of 2017, is quashed and set aside *qua* the petitioner named above.

11. In the result, this Criminal Miscellaneous Petition is allowed.

**(Anil Kumar Choudhary, J.)**

High Court of Jharkhand, Ranchi  
Dated the 18<sup>th</sup> of August, 2026  
AFR/ Animesh  
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