

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.1205 of 2020

1. Shashank Shekhar, aged about 32 years, son of Prabhash Chandra Thakur, resident of Duplex No.1 Vijay Green Earth, Dimna Road, Mango, P.O. & P.S. Mango, Jamshedpur, East Singhbhum
 2. Pankaj Kumar, aged about 30 years, son of Om Prakash Thakur, resident of Qtr. No. J-48, Mecon Colony, P.O. & P.S. Doranda, Dist: Ranchi
 3. Anchal Kumari, aged about 25 years, D/o Suresh Thakur, resident of 3A, Brojendra Palace, O.C. Compound, Near Bada Talab, Lake Road, Bangla School, P.O. & P.S: Ranchi, Dist:- Ranchi
 4. Sana Kauser, aged about 24 years, D/o Md. Zarik Khan, Nawalpur, resident of Mohalla Azad Nagar, Siwandih, P.O. & P.S: Bokaro Baradj, Dist: Bokaro
 5. Jitendra Kumar Sriwastava, aged about 45 years, of Late Manokamna Nath Sriwastava, resident of Chopan, P.O. & P.S.- Sonbhadra, Dist: Sonbhadra, UP.
 6. Nripendra Kumar Gautam, aged about 40 years, son of Rampriti Singh, resident of village Shikarpur, P.O & P.S.- Chapra, Dist: Saran, Bihar.
 7. Santosh Singh, aged about 40 years, son of Dinesh Prasad Singh, resident of Road No. 3, Shiv Mandir Prem Nagar, P.O. & P.S: Jagarnathpur, Dist: Ranchi
- ... Petitioners

Versus

1. The State of Jharkhand
 2. Ravi Kumar, aged 30 years, son of Sri Rajesh Kumar Sahu, resident of Hatia Station Road, Dinkar Nagar, Gitilpiri, P.O: Hatia, P.S: Jagarnathpur, Dist: Ranchi
- ... Opposite Parties

For the Petitioners : Mr. Suraj Verma, Advocate
For the State : Ms. Anuradha Sahay, Addl.P.P.

For the O.P. No.2 : Mr. Raj Nandan Chatterjee, 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, 1973 with the prayer to quash/set aside the entire criminal case being Complaint Case No.3144 of 2019 including the order dated 14.01.2020 whereby and where under the learned Judicial Magistrate-1st Class, Ranchi has found *prima facie* case for the offences punishable under Sections 420, 467, 468, 471, 120B/34 of the Indian Penal Code against the petitioners and the another co-accused person.

3. The allegation against the petitioners is that the petitioner No.1 entered into an agreement with the complainant to purchase 5 decimals of land for Rs.1,25,00,000/- and he paid Rs.51,00,000/- on different dates through R.T.G.S. Bank transaction. While making such payment, the petitioner No.1 also obtained cheques issued by the complainant for the said amount of Rs.51,00,000/-drawn in his favour. The complainant executed the sale-deed in respect of 5 decimals of land of which the petitioner No.1 paid Rs.74,00,000/- by demand draft but after registration of the sale-deed, the petitioner No.1 took a cheque for Rs.34,00,000/- from the complainant by enticing him. The petitioner No.1 took away Rs.85,00,000/- from the bank account of the complainant by using the cheques issued by the complainant in his favour and also obtained the signature of the complainant in an

agreement by adopting fraudulent means. The petitioner No.1 gave two post-dated cheques of Rs.34,00,000/- and Rs.31,00,000/- and promised to pay Rs.20,00,000/- within two days. On 07.01.2019, the petitioner No.1 entered into a development agreement with the complainant by giving two cheques one for Rs.7,00,000/- and the another for Rs.13,00,000/- while the complainant got the cheque of Rs.7,00,000/- encashed and the cheque for Rs.13,00,000/- was dishonoured but on being approached, the petitioner No.1 told the complainant not to institute any case and promised to pay the said amount. It is alleged that the petitioners have cheated the complainant of Rs.98,00,000/-. When the complainant went to the petitioner No.1 and demanded his money, the petitioner No.1 along with co-accused persons of the case, pressurized the complainant by coming to his house, abusing him and threatening him to kill him. The petitioner No.1 gave two post-dated cheques which later on the complainant could know belongs to the account holder namely Geeta Devi Tara Kob but the petitioner No.1 is not having any authority to sign the cheque of the said account. The petitioner No.1 has also instituted cases against the complainant. In some cases, he himself has got the cases instituted while in other cases he got the cases instituted by others and he became the witness. The petitioners have entered into a criminal conspiracy to grab the land of the complainant.

4. On the basis of the complaint, statement of the complainant and the statement of the inquiry witnesses, the learned Magistrate found *prima facie* case as already indicated above.

5. Learned counsel for the petitioners submits that the allegation against the petitioners is false. It is next submitted that even if the entire allegations made against the petitioners in the complaint, statement on solemn affirmation and the statement of the inquiry witnesses are considered to be true in their entirety still none of the offence in respect of which the learned Magistrate found prima facie case, is made out against the petitioners. It is further submitted that this case has been instituted against the petitioners for wreaking vengeance as the petitioner No.1 has instituted Argora P.S. Case No.65 of 2019 involving the offences punishable under Sections 387, 389, 120B of the Indian Penal Code in which the complainant is the accused. It is next submitted that besides instituting Complaint Case No.4517 of 2019, the petitioner No.7 has also instituted Jagarnathpur P.S. Case No.176 of 2019 against the complainant/opposite party No.2 as well as his father. It is also submitted that in respect to the question posed by the court; in his statement on solemn affirmation, the complainant has admitted that he has instituted this case because the petitioners have instituted cases against him. Hence, it is submitted that the prayer, as prayed for by the petitioners in the instant Cr.M.P., be allowed.

6. Learned Addl. P. P. appearing for the State and the learned counsel appearing for the opposite party No.2 on the other hand vehemently oppose the prayer of the petitioners made in the instant Cr.M.P. and submits that if the allegations made against the petitioners in the complaint, statement on solemn affirmation and the statement of the inquiry witnesses are considered to be true in their entirety then all

the offences in respect of which the learned Magistrate has found *prima facie* case, is in fact, made out against the petitioners. Hence, it is submitted that this Cr.M.P., being without any merit, be dismissed.

7. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, so far as the offences punishable under Sections 467, 468 and 471 of the Indian Penal Code is concerned, the essential ingredients to constitute the said offences is forgery i.e., creation of a forged document. There is absolutely no allegation against any of the petitioners of creation of any forged documents. In the absence of the allegation against any of the petitioners of creation of any forged documents, this Court is of the considered view that even if the entire allegations made against petitioners in the complaint, statement on solemn affirmation and the statement of the inquiry witnesses are considered to be true in their entirety still none of the offences punishable under Sections 467, 468 and 471 of the Indian Penal Code is not made out against the petitioners even with the aid of Section 120B or 34 of the Indian Penal Code.

8. So far as the offence punishable under Section 420 of the Indian Penal Code is concerned, it is a settled principle of law that the essential ingredients to constitute the said offence are:-

- (i) *deceit, that is to say dishonest or fraudulent misrepresentation, and*
- (ii) *Inducing the person so deceived to part with property*

as has been reiterated by the Hon'ble Supreme Court of India in the case of **Ram Narayan Popli vs. Central Bureau of Investigation** reported in (2003) 3 SCC 641.

9. 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** 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)

that in order to constitute the offence of cheating, the accused must play deception since the beginning of the transaction between the parties and if the intention to cheat has developed later on, the same cannot amount to cheating.

10. Now, coming to the facts of the case; there is absolutely no allegation against the petitioners of playing deception since the beginning of the transaction between the parties and except the petitioner No.1, there is absolutely no allegation against the any other petitioner of committing any offence.

11. Under such circumstances, this Court is of the considered view that even if the entire allegations made against petitioners in the complaint, statement on solemn affirmation and the statement of the inquiry witnesses are considered to be true in their entirety still the offence punishable under Sections 420 of the Indian Penal Code is not

made out against any of the petitioners even with the aid of Section 120B or 34 of the Indian Penal Code.

12. In view of the discussions made above, this Court is of the considered view that the continuation of this criminal proceeding against the petitioners will amount to abuse of process of law, therefore, it is a fit case where the entire criminal case being Complaint Case No.3144 of 2019 including the order dated 14.01.2020 be quashed and set aside *qua* the petitioners named above.

13. Accordingly, the entire criminal case being Complaint Case No.3144 of 2019 including the order dated 14.01.2020 is quashed and set aside *qua* the petitioners named above.

14. This Criminal Miscellaneous Petition, is allowed to the aforesaid extent only.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 30th of July, 2026
AFR/ Animesh
Uploaded on- 03/08/2026