

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. M. P. No. 1154 of 2023

Neha Sandilya @ Dr. Neha Shandilya @ Neha Shandilya, aged about 30 years, daughter of Rajesh Tiwary, r/o – A-6, Sunhara Bangla, Srihang Society, near Kestall Mil, PO & PS – Thane, District – Thane (Mumbai).

... ..Petitioner

Versus

1. The State of Jharkhand.
2. Deepak Kumar, s/o Mritunjay Singh, r/o Hotel Rahi, Station Road, near Over Bridge, PO & PS – Chutiya, District – Ranchi, Jharkhand.

... ..Opp. Parties

For the Petitioner : Mr. Rajiv Ranjan, Sr. Advocate
: Mr. Suraj Verma, Advocate
For the State : Mr. Vineet Kr. Vashistha, Spl. P.P.

PRESENT

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 Cr.P.C. with the prayer to quash the entire criminal proceedings in connection with Complaint Case No. 2458 of 2019 which upon being referred to Police under Section 156(3) of the Cr.P.C., Chutiya P.S. Case No. 203 of 2019 passed by learned Judicial Magistrate, Ranchi, was registered for the offences punishable under Sections 420, 468, 470 and 471 of the Indian Penal Code.

3. The brief fact of this case is that the mother of the petitioner stayed in the hotel, of which the complainant is the manager. She introduced herself to be a film maker and owner of a film company in the name and style of Rose Quartz Entertainment. She booked several rooms in the hotel for accommodation for the unit members of her film unit from 30.10.2017 to 24.11.2017 and the tariff of the said rooms was in total Rs. 2,65,535/-. The petitioner being the daughter of Sudha Tiwari, told the complainant that she is looking after the operation of the Rose Quartz Entertainment and she also stayed in the hotel and though promised to pay the tariffs of the rooms of the hotel for the entire film unit but did not pay the amount as promised. On 21.05.2019 the complainant filed Complaint Case No. 2458 of 2019 and the same on being referred to Police under Section 156(3) of the Cr.P.C., Chutiya P.S. Case No. 203 of 2019 was registered.

4. Learned Senior Counsel for the Petitioner submits that investigation of the case is still going on and charge-sheet has not yet been submitted by the Police. By relying upon the order dated 07.03.2022 of the Hon'ble Supreme Court of India in the case of ***Neetu Singh & Others. Vs. State of U.P. & Ors.*** passed in ***S.L.P. (Crl.) No. 783 of 2020***, it is submitted that therein it has been reiterated by the Hon'ble Supreme Court of India that it is a settled principle of law that failure to pay the rent may have civil consequences but is not a penal offence under the Indian Penal Code. It is next submitted that there is absolutely no allegation against the petitioner of creating any false document and in absence of any false document, the offence punishable under Sections

468, 470 and 471 of the Indian Penal Code, is not made out. It is next submitted that even if the entire allegation made against the petitioner is considered to be true in their entirety, still none of the offence in respect of which the F.I.R. has been lodged, is made out. Hence, it is submitted that the prayer as prayed for in this Cr.M.P., be allowed.

5. Having heard the submissions made at the bar and after going through the submissions made above, 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 *Uma Shankar Gopalika Vs. State of Bihar & Another* reported in (2005) 10 SCC 336, paragraph no. 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).

wherein the Hon'ble Supreme Court of India has reiterated the principles of law that unless the accused plays deception since the very inception, the offence of cheating will not be made out and even if the intention to cheat develops later on, the same cannot amount to cheating.

6. It is also a settled principles of law as has been reiterated by the Hon'ble Supreme Court of India in the case of *Vir Prakash Sharma v. Anil Kumar Agarwal and Another* reported in (2007) 7 SCC 373 paragraph no. 08 of which reads as under:-

“8.The dispute between the parties herein is essentially a civil dispute. Non-payment or underpayment of the price of the goods by itself does not amount to commission of an offence of cheating or criminal breach of trust. No offence, having regard to the definition of criminal breach of trust contained in Section 405 of the Penal Code can be said to have been made out in the instant case. Section 405 of the Penal Code reads, thus:

“405. Criminal breach of trust.—Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits ‘criminal breach of trust’.”

Neither any allegation has been made to show existence of the ingredients of the aforementioned provision nor any statement in that behalf has been made.” (Emphasis supplied)

wherein it has been observed that when the dispute between the parties, is essentially a civil dispute, non-payment or under payment of the price of goods by itself, does not amount to commission of an offence of cheating or criminal breach of trust.

7. Now coming to the facts of this case, the only allegation against the petitioner is that the petitioner being the daughter of her mother, stayed in the hotel of which the complainant is the manager and did not pay the room tariffs. It is the admitted case of the informant - complainant in the complaint itself, that it is the mother of the petitioner who first introduced herself to be a film maker and booked and stayed in the hotel, subsequently, the petitioner joined. So, there is no allegation against the petitioner that the petitioner played deception since the very beginning of the transaction between the parties. In absence of the same and in view of the settled principles of law that failure to pay rent or nonpayment of goods purchased cannot amount to the offence of

cheating, this Court is of the considered view that even if the entire allegation made against the petitioner is considered to be true in their entirety, still the offence punishable under Section 420 of the Indian Penal Code is not made out. So far as the offences punishable under Sections 468, 470 and 471 of the Indian Penal Code, are concerned, the essential ingredients to constitute each of those offences, is forgery, for which creation of a false document is *sine qua non*.

8. Now coming to the facts of this case, there is absolutely no allegation against the petitioner of making any false document. In absence of the same, this Court is of the considered view that even if the entire allegation made against the petitioner is considered to be true, still the none of the offences punishable under Section 468, 470 and 471 of the Indian Penal Code is made out against the petitioner.

9. In view of the discussions made above, as none of the offence in respect of which F.I.R. has been registered, is made out even if the entire allegation made against the petitioner is considered to be true in their entirety, therefore, this is a case where continuation of this criminal proceeding against the petitioner will amount to an abuse to the process of law. Hence, this is a fit case where the entire criminal proceeding in connection with Complaint Case No. 2458 of 2019 which upon being referred to Police under Section 156(3) of the Cr.P.C., Chutiya P.S. Case No. 203 of 2019 passed by learned Judicial Magistrate, Ranchi, be quashed and set aside against the petitioner.

10. Accordingly, the entire criminal proceeding in connection with Complaint Case No. 2458 of 2019 which upon being referred to Police

under Section 156(3) of the Cr.P.C., Chutiya P.S. Case No. 203 of 2019 passed by learned Judicial Magistrate, Ranchi, is quashed and set aside against the petitioner.

11. In the result, this Cr.M.P. is *allowed* to the aforesaid extent.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 15th July, 2026
AFR/ Aditi
Uploaded On -20/07/2026