

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 1270 of 2024

1. Rajeshwari Devi, aged about 69 years, wife of Kailash Pandit.
 2. Kailash Pandit, aged about 78 years, son of Jhagar Pandit
 3. Ajay Kumar, aged about 40 years, son of Kailash Pandit
- All are Resident of Station Road, Village Isri Bazar, P.O. and P.S. –
Nimiyaghat, District –Giridih.

.... Petitioners

Versus

1. The State of Jharkhand
2. Bhushan Singh, son of Late Brihaspati Singh, Resident of Village –
Poraiya, P.O. and P.S. –Nimiyaghat, District –Giridih.

.... Opp. Parties

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

For the Petitioners	: Mr. R.S. Mazumdar, Sr. Advocate
	: Mrs. Jasvinder Mazumdar, Advocate
	: Mr. Naveen Kumar, Advocate
For the State	: Mr. Abhay Kr. Tiwari, Addl. P.P.
For the O.P. No.2	: Mr. Rajesh Kumar, Advocate

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By the Court:-

1. 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 entire criminal proceeding including the order dated 03.08.2022, passed by the learned Judicial Magistrate -1st Class, Giridih in Complaint Case No. 431 of 2019 whereby and where under the learned Judicial Magistrate -1st Class, Giridih has found *prima facie* case for the offence punishable under Section 420 of the Indian Penal Code.

3. The learned senior counsel for the petitioners submits that charge has not yet been framed and the case is fixed for before charge evidence on 31.01.2026.
4. The allegation against the petitioners is that the petitioners got the complainant registered a property in their favour which property in fact belongs to Ashok Kumar Jain.
5. The learned senior counsel appearing for the petitioners relying upon the Judgment of the Hon'ble Supreme Court of India in the case of **Mohammed Ibrahim and Others Vs. State of Bihar and Another**, reported in (2009) 8 SCC 750, para -20 & 21 of which reads as under:-

20. *When a sale deed is executed conveying a property claiming ownership thereto, it may be possible for the purchaser under such sale deed to allege that the vendor has cheated him by making a false representation of ownership and fraudulently induced him to part with the sale consideration. But in this case the complaint is not by the purchaser. On the other hand, the purchaser is made a co-accused.*

21. *It is not the case of the complainant that any of the accused tried to deceive him either by making a false or misleading representation or by any other action or omission, nor is it his case that they offered him any fraudulent or dishonest inducement to deliver any property or to consent to the retention thereof by any person or to intentionally induce him to do or omit to do anything which he would not do or omit if he were not so deceived. Nor did the complainant allege that the first appellant pretended to be the complainant while executing the sale deeds. Therefore, it cannot be said that the first accused by the act of executing sale deeds in favour of the second accused or the second accused by reason of being the purchaser, or the third, fourth and fifth accused, by reason of being the witness, scribe and stamp vendor in regard to the sale deeds, deceived the complainant in any manner. (Emphasis supplied)*

Submits that therein it has been held by the Hon'ble Supreme Court of India that when a sale deed is executed conveying property claiming ownership thereto, it may be possible for the purchaser under such sale deed to allege that the vendor has cheated him but here the vendor who admits that the property transferred by him by way of sale deed does not belong to him, cannot say that he has been cheated because admittedly he has not parted with any property as no property admittedly ever belonged to him. Hence, it is submitted that even if the entire allegations made against the petitioners are considered to be true in their entirety, still the offence punishable under Section 420 of the Indian Penal Code is not made out. Therefore, it is submitted that the prayer as prayed for by the petitioners in this criminal miscellaneous petition be allowed.

6. The learned Addl. P.P. and the learned counsel for the opposite party no.2 on the other hand vehemently opposes the prayer as prayed for by the petitioners in this criminal miscellaneous petition and submits that the material in the record is sufficient to constitute the offence punishable under Section 420 of the Indian Penal Code as the petitioners by way of cheating have made the complainant execute the sale deed. Hence, it is submitted that this criminal miscellaneous petition being without any merit be dismissed.

7. Having heard the submissions made at the Bar and after going through the materials available in the record, it is pertinent to

mention here the essential ingredients to constitute the offence punishable under Section 420 of the Indian Penal Code are :-

- (i) Deceit, that is to say dishonest or fraudulent misrepresentation, and*
- (ii) Inducing the person deceived to part with any 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**.

8. Now coming to the facts of the case, it is the admitted case of the complainant that he does not have any property. The property transferred by him by way of sale does not belongs to him. So here it is an admitted case of the complainant that he has not parted with any property. At best the purchasers i.e. the petitioners could have filed a case that they have been cheated by the complainant but here the case is other way round. The complainant who has transferred a property by way of a registered sale deed which does not belong to him says that he has been cheated.

9. Under such circumstances, this Court is of the considered view that even if the entire allegations made against the petitioners are considered to be true, still the offence punishable under Section 420 of the Indian Penal Code is not made out. Therefore, continuation of this Criminal proceeding will amount to abuse of process of law. Hence, this is a fit case where the entire criminal proceeding including the order dated 03.08.2022, passed by the learned Judicial Magistrate -1st Class, Giridih in Complaint Case

No. 431 of 2019 whereby and where under the learned Judicial Magistrate -1st Class, Giridih has found *prima facie* case for the offence punishable under Section 420 of the Indian Penal Code, be quashed and set aside *qua* the petitioners.

10. Accordingly, the entire criminal proceeding including the order dated 03.08.2022, passed by the learned Judicial Magistrate -1st Class, Giridih in Complaint Case No. 431 of 2019 whereby and where under the learned Judicial Magistrate -1st Class, Giridih has found *prima facie* case for the offence punishable under Section 420 of the Indian Penal Code, is quashed and set aside *qua* the petitioners.
11. In the result, this criminal miscellaneous petition is allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 22nd January, 2026
AFR/Sonu-Gunjan/-

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