

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 117 of 2007

Ranthu Ram, S/o Late Bahura Ram, residing at Circle
Office, Khunti, P.S.- Khunti, Dist.- Ranchi

..... Petitioner

Versus

1. The State of Jharkhand
2. Lal Swatantra Nath Shahdeo, S/o Late Chunnulal
Ambika Prasad Nath Shahdeo, resident of Ratu Road,
P.S.- Sukhdeo Nagar, Dist.- Ranchi

..... Opposite Parties

For the Petitioner	: Mr. P.P.N.Roy, Sr. Adv. Ms. Kavita Kumari , Adv.
For the State	: Mr. Jitendra Pandey, Addl. PP
For the O.P. No. 2	:Mr. Jitendra Shankar Singh,Adv. Mr. Tarun Kr. Mahato,Adv. Mr. Rohitashya Roy,Adv.

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- Heard the parties. Learned counsel for the opp. Party
no. 2 files the Counter Affidavit. Keep the same in the record.

2. This criminal miscellaneous petition has been filed invoking the jurisdiction of this Court under Section 482 of CrPC with a prayer for quashing and setting aside the order dated 18.09.2006 passed in Complaint case no. 1051 of 2006 by learned JMFC, Ranchi and consequential reliefs.
3. The brief fact of the case is that the petitioner being a *Karamchari* in criminal conspiracy with the co-accused persons illegally recommended the mutation without the consent of the complainant. On the basis of the complaint, the statement on Solemn Affirmation and the statement of the inquiry witnesses, learned JMFC found the sufficient materials to proceed against the petitioner for having committed the offences punishable under

Sections 120B, 420, 466 , 471 of the IPC and past an order for issuance of summons.

4. It is submitted by the learned senior counsel for the petitioner that the allegation against the petitioner is false even. It is then submitted that even if the entire allegation made in the complaint, the statement on Solemn Affirmation, and the statement of the Enquiry Witnesses are considered to be true still none of the offences in respect of which the *prima facie* case has been found by the learned Magistrate is in fact made out. It is next submitted that there is an appropriate legal remedy for the alleged illegal order passed by the Circle Officer but the same will not amount to any offence for prosecution, by way of criminal case. Hence, it is submitted that the prayer as made in this criminal miscellaneous petition be allowed.
5. Learned Addl. PP and learned counsel for the Opp. Party no. 2 on the other hand vehemently oppose the prayer of the petitioner and submits that the petitioner in capacity of *Karamchari* has illegally recommended the mutation in favour of the accused persons, hence, it is submitted that this criminal miscellaneous petition being without any merit be dismissed.
6. Having heard the submissions made at the Bar and after going through materials available in the record, it is pertinent to mention here that so far as the offence punishable under Section 420 of IPC is concerned, the essential ingredients to constitute the said offence are as under :-
 - (i) the deceit i.e. to say dishonest or fraudulent misrepresentation
 - (ii) inducing the person deceived to part with property, as has been held by the Hon'ble Supreme Court of India in the case of **Ram Narain Popli vs. CBI** reported in (2003) 3 SCC 641.
7. Further 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)

in order to constitute the offence of cheating, the accused must have played deception since the beginning of the transaction.

8. Now coming to the facts of the case, neither there is any allegation against the petitioner of deceiving anybody nor there is allegation of inducing any person to deliver any property and in the absence of the same, this Court is of the considered view that even if the entire allegation against the petitioner, are considered to be true in their entirety, still the offence punishable under Section 420 of IPC even with the aid of Section 120B of the IPC is not made out.
9. So far as the offences punishable under Section 466 of IPC and Section 471 of IPC are concerned, the essential ingredients of both these offences are that there has to be a creation of a false document i.e. forgery.
10. Now coming to the facts of the case, there is absolutely no allegation against any of the accused persons of the case of committing any forgery by creating any false document and in absence of any forgery having been committed by any of the accused persons of the case, certainly, even if the entire allegations are considered to be true in their entirety, neither the offence punishable under Sections 466 of IPC nor the offence punishable under Section 471 of IPC is made out, even with the aid of Section 120B of IPC.
11. In view of the discussions made above, as none of the offences in respect of which, learned Magistrate has found prima facie case is made out against the petitioner, even if the entire allegation made against them are considered to be true in their entirety, the continuation of the criminal proceeding against the petitioner will amount to abuse of process of law. Therefore, this is a fit case, where the order dated 18.09.2006 passed in Complaint case no. 1051 of 2006 by learned JMFC, Ranchi be quashed and set aside.

12. Accordingly, the order dated 18.09.2006 passed in Complaint case no. 1051 of 2006 by learned JMFC, Ranchi is quashed and set aside.

13. This Criminal Miscellaneous Petition is allowed to the aforesaid extent.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated, the 16th September, 2025
Smita / AFR