

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**Cr.M.P. No. 2052 of 2024**

1. Akhilesh Prasad Srivastava @ Akhil Prasad Srivastava, aged about 59 years, son of Late Rajendra Prasad Srivastava, resident of Road No.6, Hawaii Nagar, P.O. Jagarnathpur, P.S. -Jagarnathpur, District -Ranchi (Jharkhand).
2. Savita Srivastava @ Sabita Srivastava, aged about 54 years, wife of Akhilesh Prasad Srivastava, resident of Road No.6, Hawaii Nagar, P.O. Jagarnathpur, P.S. -Jagarnathpur, District -Ranchi (Jharkhand).

.... Petitioners

Versus

1. The State of Jharkhand
2. Dr. Subodh Kumar, aged about 56 years, son of Late Arjun Prasad Singh, resident of 3/55, New Gandhi Nagar, Hinoo, P.O. -Doranda, P.S. -Doranda, District -Ranchi (Jharkhand).

.... Opp. Parties

**P R E S E N T**

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

For the Petitioners  
For the State

.....  
: Mr. Ajay Kumar Sah, Advocate  
: Mrs. Ruby Pandey, Addl. P.P.

.....

***By the Court:-***

1. Heard the parties.
2. Though notice has validly been served upon the opposite party no.2, but no-one turns up on behalf of the opposite party no.2 in spite of repeated calls.
3. This criminal miscellaneous petition has been filed invoking the jurisdiction of this Court under Section 482 of Cr.P.C. with the prayer to quash the entire criminal proceedings in connection with Complaint Case No. 3276 of 2023 including the order dated

06.02.2024, passed by the learned Judicial Magistrate -1<sup>st</sup> Class - XXVII, Ranchi by which the learned Magistrate has found prima facie case for the offences punishable under Section 420, 468 & 120B of the Indian Penal Code and ordered for issuance of summons.

4. The allegation against the petitioners is that the petitioners entered into a lease agreement with the complainant-opposite party no.2 for ten years in respect of her building for running a hospital and research centre and invested money for renovation of the building but the plan of the building could not be approved by the competent authority, hence the hospital cannot run from that building. The complainant lodged First Information Report with Jagarnathpur Police Station, basing upon which, Jagarnathpur P.S. Case No. 233 of 2019 was registered and police took up investigation of the case and submitted Final Report on the ground that the dispute between the parties is a civil dispute. The complainant did not file any protest petition in the said case. It is the further case of the complainant that the petitioner no.2 instituted a false case against the complainant basing upon which Jagarnathpur P.S. Case No. 230 of 2019 was registered and police during the investigation of the said case arrested the complainant and he was remanded to judicial custody but later on he was released on bail. The complainant filed W.P.(Cr.) No.184 of 2021 with a prayer to quash the F.I.R. of the said case but the same was dismissed on merit by this Court vide order dated 28.11.2023. The

petitioner no.2 has filed a case under the provisions of the Jharkhand Building (Lease, Rent and Eviction) Control Act before the Sub-Divisional Officer, Ranchi for eviction of the complainant and the same is pending at the time of impugned order was passed. The learned Judicial Magistrate -1<sup>st</sup> Class -XXVII, Ranchi, on the basis of the complaint, statement of the complainant on solemn affirmation and statement of the inquiry witnesses found prima facie case for the offences punishable under Section 420, 468 & 120B of the Indian Penal Code and passed the summoning orders.

5. The learned counsel for the petitioners submits that the allegations against the petitioners are false. It is next submitted that even if the entire allegations made against the petitioners are considered to be true, still neither the offence punishable under Section 420 of the Indian Penal Code nor the offence punishable under Section 468 of the Indian Penal Code is made out even with the aid of Section 120B of the Indian Penal Code. The opposite party no.2 as per the arbitration clause filed Arbitration Application No.37 of 2020 before this Court for appointment of independent arbitrator to resolve the dispute between the parties but the same was dismissed vide order dated 15.02.2023. It is next submitted that admittedly the opposite party no.2 lodged Jagarnathpur P.S. Case No. 233 of 2019 against the petitioners for the self-same occurrence and subsequent complaint for the self-same case is not maintainable.

6. The learned counsel for the petitioners relied upon the judgment of this Court in the case of **Ravindra Kumar Sinha Vs. The State of Jharkhand and Anr.** reported in **2023:JHHC:21830** and submits that therein this Court has discussed the ingredients of the offences punishable under Section 468 of the Indian Penal Code in para -16 which reads as under:-

“16. So far as the offence punishable under Section 468 of the Indian Penal Code is concerned, the essential ingredients are that:-

- (i) There should be a forgery in respect of the document or electronic record in question;
- (ii) The intention of the forgery should be that the forged document or electronic record is to be used for the purpose of cheating;
- (iii) There should be forgery with particular intent, as has been held by the Hon'ble Supreme Court of India in the case of **Ram Narayan Popli vs. CBI**, reported in **(2003) 3 SCC 641**.

Hence, it is submitted that the prayer as prayed for by the petitioners in this criminal miscellaneous petition be allowed.

7. The learned Addl. P.P. on the other hand vehemently opposes the prayer as prayed for by the petitioners in this criminal miscellaneous petition and submits that if the entire allegations are considered to be true in their entirety, then all the offences in respect of which prima facie case has been found by the learned

Judicial Magistrate -1<sup>st</sup> Class-XXVII is in fact made out. Hence, it is submitted that this criminal miscellaneous petition being without any merit be dismissed.

8. Having heard the submissions made at the Bar and after going through the materials available in the record, it is pertinent to mention here that the essential ingredients to constitute the offence punishable under Section 420 of the Indian Penal Code are as under:-

(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** (supra).

9. Now coming to the facts of the case, there is absolutely no allegation against the petitioners of either deceiving the complainant or inducing him to part with any property. There is no allegation of the complainant parting with any property.

10. Under such circumstances, in the absence of these essential ingredients to constitute the offence punishable under Section 420 of the Indian Penal Code, this Court is of the considered view 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

against the petitioners even with the aid of Section 120B of the Indian Penal Code.

11. So far as the offence punishable under Section 468 of the Indian Penal Code is concerned, the essential ingredient to constitute the said offence is that there should be forgery in respect of the document or electronic record.
12. Now coming to the facts of the case, there is no allegation that any false document has been created by the petitioners. In the absence of the same, this Court has no hesitation in holding that even if the entire allegations made against the petitioners are considered to be true in their entirety, still the offence punishable under Section 468 of the Indian Penal Code is not made even with the aid of Section 120B of the India Penal Code.
13. In view of the discussions made above, as neither the offence punishable under Section 420 of the Indian Penal Code nor the offence punishable under Section 468 of the Indian Penal Code is made out even with the aid of Section 120B of the Indian Penal Code against either of the petitioners even if the entire allegations made against them are true, this Court has no hesitation in holding that the continuation of this criminal proceeding against the petitioners will amount to abuse of process of law.
14. Therefore, this is a fit case where the entire criminal proceedings in connection with Complaint Case No. 3276 of 2023 including the order dated 06.02.2024, passed by the learned Judicial Magistrate - 1<sup>st</sup> Class -XXVII, Ranchi by which the learned Magistrate has

found prima facie case for the offences punishable under Section 420, 468 & 120B of the Indian Penal Code, be quashed and set aside *qua* the petitioners.

15. Accordingly, the entire criminal proceedings in connection with Complaint Case No. 3276 of 2023 including the order dated 06.02.2024, passed by the learned Judicial Magistrate -1<sup>st</sup> Class - XXVII, Ranchi by which the learned Magistrate has found prima facie case for the offences punishable under Section 420, 468 & 120B of the Indian Penal Code, is quashed and set aside *qua* the petitioners.
16. In the result, this criminal miscellaneous petition is allowed.

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

High Court of Jharkhand, Ranchi  
Dated the 7<sup>th</sup> May, 2026  
AFR/Sonu-

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