

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 2593 of 2023

1. Tata AIG General Insurance Company Ltd., having its registered office at Peninsula Business Park, Tower A, 15th Floor, G.K. Marg, Lower Parel, P.O. Lower Parel, P.S. -N.M. Joshi Marg, Lower Parel, Dist-Mumbai -400013, State Maharashtra, represented through its authorized representative G.G. Padmakar Tripathi, aged about 42 years, S/o PG Tripathi, posted at Peninsula Busniess Park, Tower A, 15th Floor, G.K. Marg, Lower Parel, P.O. Lower Parel, P.S. -N.M. Joshi Marg, Lower Parel, District -Mumbai -400013, State Maharashtra.
2. Ranjan Kumar Rai (Male), Aged about 36 years, S/o Binod Kumar Rai, R/o 704 B, Sai Somu Heritage, P.O. -Gothapatna, PS -Bharatpur, District -Khurda, State Odisha -751003.

Petitioners

Versus

1. The State of Jharkhand
2. Baridhar Mahato, Male, S/o Late Prakash Mahato, R/o Bhojpur Colony, Baridh Basti, Near Samudaik Bhawan, Baridih, P.O. - Baridih, P.S. -Sidhgora, Town -Jamshedpur, District -Singhbhum East.

....

Opp. Parties

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

For the Petitioners
For the State

.....
: Mr. Bharat Kumar, Advocate
: Mr. Vishwanath Roy, Spl. P.P.
.....

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 taking cognizance dated

02.05.2022, passed by the learned Judicial Magistrate -1st Class, Jamshedpur in Complaint Case No. 1646 of 2020 whereby and where under the learned Judicial Magistrate -1st Class, Jamshedpur has found *prima-facie* case for the offences punishable under Section 406 and 420 of the Indian Penal Code.

3. At the outset, the learned counsel for the petitioners do not press this criminal miscellaneous petition on behalf of the petitioner no.2 – Ranjan Kumar Rai and confines his prayer only on behalf of the petitioner no.1 –Tata AIG General Insurance Company Ltd.
4. Accordingly, the prayer as prayed for in this criminal miscellaneous petition on behalf of the petitioner no.2 –Ranjan Kumar Rai is rejected as not pressed.
5. So far as the petitioner no.1 is concerned, the allegation against him is that the petitioner no.1 issued an insurance policy in respect of the vehicle owned by the complainant. The vehicle of the complainant met with an accident but the claim of the complainant was repudiated by the petitioner no.1 on the ground that though the vehicle was insured as a private vehicle, the same was used for commercial purpose.
6. It is submitted by the learned counsel for the petitioner no.1 relying upon the Judgment of the Hon'ble Supreme Court of India in the case of **A.M. Mohan Vs. State Represented by SHO And Another**, reported in (2024) 12 SCC 181 that therein the Hon'ble Supreme Court of India has quoted the law with regard to the jurisdiction under Section 482 of the Cr.P.C. to quash complaints,

in the case of **Indian Oil Corporation Vs. NEPC India Ltd. And Others**, reported in (2006) 6 SCC 736. It is next submitted by the learned counsel for the petitioner no.1 that the allegations against the petitioner no.1 are false. It is then submitted that there is no allegation of any entrustment against the petitioner no.1 nor there is any allegation of playing deception since the beginning of the transaction between the parties and in the absence of the same, none of the offences in respect of which *prima facie* case has been found by the learned Judicial Magistrate -1st Class, Jamshedpur is made out. Hence, it is submitted that the prayer as prayed for by the petitioner no.1 in this criminal miscellaneous petition be allowed.

7. The learned Special Public Prosecutor on the other hand vehemently opposes the prayer and submits that the materials in the record are sufficient to constitute both the offences punishable under Section 406 and the offence punishable under Section 420 of the Indian Penal Code. 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 it is a settled principle of law as has been reiterated by the Hon'ble Supreme Court of India in the case of **Uma Shankar Gopalika vs. State of Bihar & Anr.** 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)

That in order to constitute the offence of cheating, the accused must have the intention to deceive the victim since the very beginning of the transaction between them but if the intention to cheat has developed later on, the same will not amount to cheating.

9. Now coming to the facts of the case, the undisputed fact remains that the insurance company issued a policy for the vehicle of the complainant which was shown as a private vehicle. So, there is no allegation of any deception having been played by the petitioner no.1 since the beginning of the transaction between the parties. In the absence of the same, this Court is of the considered view that even if the entire allegations made against the petitioner no.1 are considered to be true, still the offence punishable under Section 420 of the Indian Penal Code is not made out.
10. So far as the offence punishable under Section 406 of the Indian Penal Code is concerned, the essential ingredient of the said offence is dishonest misappropriation of any entrusted property etc.
11. Now coming to the facts of the case, there is no allegation of dishonest misappropriation of any entrusted property rather, the only allegation against the petitioner no.1 is that he repudiated the

insurance claim of the complainant on the ground that the vehicle owned by the complainant though was insured as a private vehicle but the same was used for commercial purposes.

12. Under such circumstances, this Court is of the considered view that even if the entire allegations made against the petitioner no.1 are considered to be true in their entirety, still the same does not amount to dishonest misappropriation of the entrusted property and in the absence of the same, the offence punishable under Section 406 of the Indian Penal Code is not made out even if the entire allegations made against the petitioner no.1 are considered to be true in their entirety.

13. In view of the discussions made above, since neither the offence punishable under Section 406 nor 420 of the Indian Penal Code is made out against the petitioner no.1, hence continuation of this criminal proceeding against the petitioner no.1 will amount to abuse of process of law. Therefore, this is a fit case where the entire criminal proceeding including the order taking cognizance dated 02.05.2022, passed by the learned Judicial Magistrate -1st Class, Jamshedpur in Complaint Case No. 1646 of 2020 whereby and where under the learned Judicial Magistrate -1st Class, Jamshedpur has found *prima-facie* case for the offences punishable under Section 406 and 420 of the Indian Penal Code, be quashed and set aside *qua* the petitioner no.1.

14. Accordingly, the entire criminal proceeding including the order taking cognizance dated 02.05.2022, passed by the learned Judicial

Magistrate -1st Class, Jamshedpur in Complaint Case No. 1646 of 2020 whereby and where under the learned Judicial Magistrate -1st Class, Jamshedpur has found *prima-facie* case for the offences punishable under Section 406 and 420 of the Indian Penal Code, is quashed and set aside *qua* the petitioner no.1.

15. This criminal miscellaneous petition is disposed of accordingly.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 27th November, 2025
AFR/Sonu-Gunjan/-

Uploaded on 17/12/2025