

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 2858 of 2023

Hema Kumari, aged 34 years, wife of Sunil Kumar,
resident of Village Aludia, P.O. Kamta, P.S. Chandwa,
District-Latehar. Petitioner

Versus

1. The State of Jharkhand
2. Lal Badri Nath Sahdeo, son of Late Lal Lalan Nath Sahdeo, resident of Barkagarh, Jagannathpur, P.O. and P.S. Dhurwa, District-Ranchi. Opposite Parties

For the Petitioner	: Mr. Nilesh Kumar , Adv. Mr. Ayush Kumar Verma, Adv.
For the State	: Ms. Nehala Sharmin, Spl. PP
For the O.P. No. 2	: Mr. Lal Vikram Nath Shahdeo , Adv.

P R E S E N T

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 CrPC with the prayer for quashing and setting aside the entire criminal proceeding as well as the order dated 30.05.2023 by which, learned SDJM, Ranchi has found the *prima facie* case for the offence punishable under Section 420 of the IPC in connection with Complaint case no. 4022 of 2019.
2. The brief fact of the case is that the petitioner along with the co-accused persons, has sold the land belonging to the ancestors of the complainant and got the same mutated in their name.
3. Learned counsel for the petitioner relies upon the judgment of the Hon'ble Supreme Court of India in the case of **Mohammed Ibrahim & Others vs. State of Bihar & Another** reported in (2009) 8 SCC 751 and submitted that therein, it has been categorically held by the Hon'ble Supreme Court of India that 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.

4. It is next submitted that in para 18 of the above mentioned case, which reads as under:-

"18. Let us now examine whether the ingredients of an offence of cheating are made out. The essential ingredients of the offence of "cheating" are as follows:

- (i) deception of a person either by making a false or misleading representation or by dishonest concealment or by any other act or omission;*
- (ii) fraudulent or dishonest inducement of that person to either deliver any property or to consent to the retention thereof by any person or to intentionally induce that person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived; and*
- (iii) such act or omission causing or is likely to cause damage or harm to that person in body, mind, reputation or property."*

the Hon'ble Supreme Court of India has mentioned the essential ingredients to constitute the offence of cheating but as none of the said ingredients has been fulfilled even if the entire allegations against the petitioner are considered to be true in their entirety; hence they offence punishable under section 420 of the IPC is not made out against the petitioner, even if the entire allegations made against him are considered to be true.

5. Learned counsel for the petitioner further submits that the petitioner is the *bonafide* purchaser of the land which she has purchased from Usha Kumari Devi in the year 2019 by registered sale deed and the mutation of the property has already been done in the name of the petitioner. It is next submitted that at best, the claim of the petitioner can give rise to only a civil dispute. It is next submitted that Usha Kumari was the exclusive owner of the property in question before she sold the same to the petitioner, hence, it is submitted that the prayer as made in this criminal miscellaneous petition be allowed.

6. Learned Spl. PP and learned counsel for the O.P.No. 2 on the other hand vehemently oppose the prayer of the petitioner and submit that the materials in the record is sufficient constitute each of the offences punishable under Section 420 of the IPC, 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 materials available in the record, 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 **Mohammed Ibrahim & Others vs. State of Bihar & Another (supra)**, that when a sale deed is executed conveying a property claiming ownership thereto, it is only the purchaser who can allege that the the vendor has cheated him but a third person cannot do the same.
8. Now coming to the facts of the case, the petitioner is the purchaser of the land and there is no allegation of impersonation of Usha Kumari Devi, who executed the sale deed in favour of the petitioner. So, Usha Kumari Devi claims to be the exclusive owner of the property sold by her.
9. Under such circumstances, it is not open for the complainant to allege the commissions of the offence of cheating. Moreover, there is no allegation against the petitioner of deceiving the complainant or anyone else nor there is allegation against the petitioner by fraudulently or dishonestly inducing the complainant or anyone else to part with any property and in absence of these two essential ingredients to constitute the offence punishable under Sections 420 of IPC, even if the entire allegations against the petitioner are considered to be true in its entirety still offence punishable under Section 420 of the IPC is not made out.
10. In view of the discussions made above, as the offence punishable under Section 420 of the IPC is not made out, even if the entire allegations are considered to be true in its entirety, hence, this

court is of the considered view that continuation of the criminal proceeding will amount to abuse of process of law, therefore, this is a fit case, where the entire criminal proceeding as well as the order dated 30.05.2023 passed by learned SDJM, Ranchi in connection with Complaint case no. 4022 of 2019, be quashed and set aside *qua* the petitioner.

11. Accordingly, the entire criminal proceeding as well as the order dated 30.05.2023 passed by learned SDJM, Ranchi in connection with Complaint case no. 4022 of 2019, is quashed and set aside *qua* the petitioner.

12. In the result, this Criminal Miscellaneous Petition is allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated, the 27th November, 2025
Smita / AFR

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