

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**Cr.M.P. No. 1298 of 2025**

Rajesh Choudhary, aged about 27 years, son of Anil Kumar  
Choudhary, resident of Qtr. No. MQ/13, Colony No. 1, P.O. &  
P.S.- Bokaro Thermal, Dist.- Bokaro

..... Petitioners

Versus

The State of Jharkhand

..... Opposite Party

For the Petitioners : Mr. Pankaj Verma, Adv.

For the State : Mr. Vineet Kr. Vashistha, Spl. PP

**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 528 of BNS, 2023 with a prayer for quashing and setting aside the entire criminal proceeding as well as the order dated 08.04.2024 passed by learned JMFC, Bermo at Tenughat in connection with G.R. No. 1394 of 2022 arising out of BTPS Case no. 100 of 2022 pending in the court of learned JMFC, Bermo at Tenughat.
3. The brief facts of the case is that the informant- opp. party no. 2 filed Complaint case no. 797 of 2022 and the same was referred to the police under section 156 (3) of CrPC and basing upon the same, BTPS Case no. 100 of 2022 was registered and the police took up the investigation of the case. After investigation, police submitted charge sheet finding the allegation made against the petitioner for having committed the offence punishable under Section 406, 420 and 120B of IPC to be true. Upon receipt of the charge sheet, learned JMFC, considered that the informant gave blank cheque to the petitioner, as security, in lieu of the loan taken by him and despite the fact that that the informant returned the

money, the accused persons, misused the cheque, by presenting the same in the bank which was dishonored and found *prima facie* materials against the petitioner, for having committed the offence punishable under section 406 and 420 of IPC.

4. It is submitted by learned counsel for the petitioner that the petitioner has filed Complaint case no. 754 of 2022 against the informant for having committed the offence punishable under Sections 138 of NI Act. It is next submitted that the allegations against the petitioner are false and even though the entire allegations made against the petitioner are considered to be true in their entirety, still neither the offence punishable under Section 406 of the IPC nor the offence punishable under Section 420 of the IPC is made out against the petitioner, hence, it is submitted that the prayer as made in this criminal miscellaneous petition be allowed.
5. Learned Spl. PP on the other hand opposes the prayer of the petitioner and submits 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 the essential ingredients to constitute the offence punishable under Section 406 of IPC are –
  - (i) There must be entrustment and;
  - (ii) there must be misappropriation or conversion to one's own use or use in violation of the legal direction or of any legal contract;
 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**.
7. Now coming to the facts of the case, there is absolutely no allegation of entrustment of any property or valuable security to the petitioner. Nor there is any allegation of dishonest misappropriation; because presentation of a cheque and its dishonor by the bank will not amount to dishonest misappropriation and in

view of the absence of these essential ingredients to constitute the offence punishable under Section 406 of IPC, this Court is of the considered view that even if the entire allegations made against the petitioner are considered to be true in their entirety, still the offence punishable under Section 406 of the IPC is not made out.

8. So far as the offence punishable under Section 420 of the IPC is concerned, it is pertinent to mention here that the essential ingredients to constitute the offence punishable under Section 420 of the IPC are that

- (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;

as has been reiterated by the Hon'ble Supreme Court of India in the case of **Mohammed Ibrahim & Ors vs State Of Bihar & Anr** reported in (2009) 8 SCC 751.

9. Now coming to the facts of the case, there is no allegation against the petitioner of adopting any deception rather the cheque was given admittedly by the informant to the petitioner as a security while taking friendly loan. So, in the absence of any deception being played since the beginning of the transaction between the party; neither there being any allegation that the informant or any one parted with any property because of any deception, even if the entire allegations made against the petitioner are considered to be true in their entirety, still the offence punishable under Section 420 of IPC is not made out.

10. Under such circumstances, this Court is of the considered view that as neither the offence punishable under Section 420 of IPC is made out nor the offence punishable under Section 406 of IPC is made out against the petitioner even if the entire allegations made against him are considered to be true in their entirety; hence, continuation of the criminal proceeding against the petitioner 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 08.04.2024 passed by learned JMFC, Bermo at Tenughat in connection with G.R. No. 1394 of 2022 arising out of BTPS Case no. 100 of 2022 be quashed and set aside against the petitioner.
11. Accordingly, the entire criminal proceeding as well as the order dated 08.04.2024 passed by learned JMFC, Bermo at Tenughat in connection with G.R. No. 1394 of 2022 arising out of BTPS Case no. 100 of 2022 is quashed and set aside against the petitioner.
12. In the result, this Criminal Miscellaneous Petition is allowed.

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

High Court of Jharkhand, Ranchi  
Dated, the 8<sup>th</sup> July, 2025  
Smita / AFR