

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. M. P. No. 4564 of 2022

Kumud Kumar Jha @ Kumud Jha, aged about 56 years, son of
Indu Shekhar Jha, resident of New Nagratoli, PO & PS - Lalpur,
District - Ranchi. **Petitioner**

Versus

1. The State of Jharkhand.
2. Janab Salim Sahab, son of Mazidur Rahman, resident of Old
Purulia Road, Ranchi, presently residing at Kadru, PO - Kadru,
PS - Argora, District - Ranchi. **Opp. Parties**

For the Petitioners : Mr. A. K. Sahani, Advocate
For the State : Ms. Priya Shrestha, Spl. P.P.

PRESENT

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- **I. A. No. 6435 of 2026**

This Interlocutory Application has been filed with the prayer to
amend the Cr. M.P. by deleting the name of Opposite Party No. 2 as the
Opposite Party No. 2, namely, Janab Salim Sahab has died on 03.02.2025.

Prayer is allowed.

Registry is directed to delete the name of the Opposite Party No. 2
from the array of the Opposite Parties in the cause title of the Cr.M.P.
with "red ink".

Accordingly, I.A. No. 6435 of 2026 is *allowed*.

(Anil Kumar Choudhary, J.)

Cr. M. P. No. 4564 of 2022

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 26.03.2007 passed by the learned Judicial Magistrate, Ranchi in Complaint Case No. 37 of 2007 whereby and whereunder the learned Magistrate has found the *prima facie* case for the offence punishable under Section 417 of the Indian Penal Code *inter alia* against the petitioner.

3. It is submitted by the learned counsel for the petitioner that the allegation against the petitioner is that the petitioner went to the house of the complainant and asked the complainant to return the agreement and take the amount he paid and basing upon which payment the agreement was entered into. When the complainant refused the same, the petitioner along with the co-accused person, namely, Om Chawnika, called some anti-social elements and after confining the complainant in a room, abused him in a flighty language and at the point of revolver, asked the complainant to sign on one blank non-judicial stamp paper. On 31.12.2006, when the complainant was carrying on some construction work, the petitioner and the co-accused persons assaulted the labourers and on protest being made by the complainant, the petitioner and the co-accused person, namely, Om Chawnika, told the complainant that they

have every right and title acquired by virtue of the sale deed executed in their favour by the co-accused no. 1 to 5 of the complaint. It is next submitted that even assuming for the sake of argument that entire allegation made against the petitioner, is considered to be true in their entirety, still the same is insufficient to constitute the offence punishable under Section 417 of the Indian Penal Code. It is next submitted that a co-ordinate bench of this Court in Cr.M.P. No. 309 of 2009, vide order dated 24.06.2019 has quashed the entire criminal proceeding including the order taking cognizance against the co-accused persons, hence, it is submitted that the prayer as prayed for in this Cr. M.P., be allowed.

4. Learned Spl. P.P. on the other hand vehemently opposes the prayer of the petitioner and submits that the allegations made in the complaint, statement on solemn affirmation, statement of the enquiry witnesses, if are considered to be true in their entirety, then the offence punishable under Section 417 of the Indian Penal Code, is made out. Hence, it is submitted that the prayer as prayed for in this Cr.M.P., being without any merit, be dismissed.

5. Having heard the submissions made at the bar and after going through the materials on record, it is pertinent to mention here that the essential ingredient to constitute the offence punishable under Section 417 of the Indian Penal Code are as under:-

I. The accused voluntarily or dishonestly induced the complainant;

- II. He did so for delivery of some property either to the accused or some other person;
- III. He intentionally induced the complainant to do a thing which he would not do or omit to do - a thing which he would have done if not so induced;
- IV. Such act caused was likely to cause some damage or harm to his body, mind, reputation or property.

6. It is a settled principles of law as had been held by the Hon'ble Supreme Court of India in the case of *Devender Kumar Singla v. Baldev Krishan Singla* reported in (2005) 9 SCC 15, that the requirement of cheating are as follows: -

- I. There must be deception of any person;
- II. Fraudulently or dishonestly inducing that person to deliver any property to any person or to consent that any person shall retain any property; or
- III. Intentionally inducing that person to do or omit to do anything which he would not do or omit to do if he was not so deceived;
- IV. Which act or omission is caused or is likely to cause damage or harm to that person in body, mind, reputation or property.

7. Now coming to the facts of the case, there is absolutely no allegation against the petitioner of deceiving anybody nor is there any allegation against the petitioner of fraudulently or dishonestly inducing any person so deceived to deliver any property. In the absence of these two essential ingredients of the offence punishable under Section 417 of the Indian Penal Code, this Court is of the considered view that even if the allegation made against the petitioner is considered to be true in its entirety, still the offence punishable under Section 417 of the Indian Penal Code is not made out.

8. Therefore, continuation of this criminal proceeding will amount to an abuse to the process of law, hence, the entire criminal proceeding including the order taking cognizance dated 26.03.2007 passed by the learned Judicial Magistrate, Ranchi in Complaint Case No. 37 of 2007, be quashed and set aside.

9. Accordingly, entire criminal proceeding including the order taking cognizance dated 26.03.2007 passed by the learned Judicial Magistrate, Ranchi in Complaint Case No. 37 of 2007, is quashed and set aside qua the petitioner.

10. In the result, Cr.M.P. No. 4564 of 2022 is *allowed*.

(Anil Kumar Choudhary, J.)