

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr.M.P. No. 4555 of 2022

Sunil Choudhary, aged about 54 years, Son of Late Shri Veer Bhadra Choudhary, Resident of Village-Nehra, P.O. -Nehra, P.S. -Manigachhi, District Darbhanga, Pin-843233, Bihar.

..... Petitioner

Versus

1. The State of Jharkhand
2. Sachindra Prasad Singh, aged about 71 years, Son of Late Tapashwi Singh, Resident of Gouri Shankar Nagar, P.O., P.S Doranda & District - Ranchi Opposite Parties

For the Petitioner	: Mr. Samir Sahay , Adv.
	: Ms. Tejaswaita Safalta , Adv.
For the State	: Mr. Pankaj Kumar, PP
For the O.P.No. 2	: Mr. J.P.Jha, Sr. Adv.
	Mr. S. Sharma, Adv.
	Mr. A.Prakash, 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 Jagarnathpur (Pundag) P.S. case no. 395 of 2022 registered for the offences punishable under Sections 354, 406, 420, 506 and 34 of IPC *qua* the petitioner.
3. It is next submitted by learned counsel for the petitioner that the investigation of the case is still going on and charge sheet has not yet been submitted.
4. The brief fact of the case is that the petitioner is the accused no. 1 of the Complaint case no. 8067 of 2022 of the court of J.M., Ranchi which upon being referred to police under Section 156 (3) of CrPC, the aforesaid case has been registered.
5. It is submitted by learned counsel for the petitioner that the allegation against the petitioner is that the petitioner being the Managing Director of M/s Kashish Developers Private Limited- a

company incorporated and registered under the Companies Act. On behalf of the said company, its Manager Estate, transferred 1.48 Acres of land in favour of Smt. Asha Singh- the wife of the complainant and Smt. Sunita Jha, an associate of the complainant, by registered sale deed as per the direction of the Hon'ble Supreme Court of India in the case of Cr. Appeal no. 904 of 2017. It is next submitted that there is allegation that some musclemen are disturbing the possession of the complainant and his wife and associate but there is no direct or specific allegation against the petitioner nor there is any allegation in the entire complaint petition, which has been treated as FIR except that he is the Managing Director of M/s Kashish Developers Private Limited.

6. Relying upon the judgment of the Hon'ble Supreme Court of India in the case of the **Suraj Shelke Patil and Anr. Vs. State of Jharkhand and Anr.** reported in **2023 SCC OnLine Jhar 2767**, it is submitted by learned counsel for the petitioner that therein this Court relied upon the judgment of the Hon'ble Supreme Court of India in the case of **Uma Shankar Gopalika vs. State of Bihar & Another** reported in **(2005) 10 SCC 336, para 6** of which reads as under:-

"6. Xxxxx 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)

Wherein the Hon'ble Supreme Court of India reiterated the settled principle of law that in order to constitute the offence of cheating the accused must play deception at the very inception and if the intention to cheat has developed later on the same cannot amount to cheating and submits that as in this case, there is absolutely no allegation against the petitioner of playing deception since the beginning of the transaction between the parties, hence, the offence punishable under Section 420 of IPC is not made out. It is next submitted that in para 7 of that judgment, this Court has described

the ingredients required to constitute the offence punishable under Section 406 of IPC which reads as under :-

(i) *Mens rea*

(ii) *There must be dishonest misappropriation or conversion to one's own use, or use in violation of a legal direction or of any legal contract*

(iii) *The accused dishonestly used or disposed of the property*

7. It is next submitted that as none of the ingredients of the offence punishable under Section 406 of IPC has been alleged against the petitioner, hence, the offence punishable under Section 406 of IPC is not made out.

8. Learned counsel for the petitioner next relies upon the judgment of this court in the case of **Sanjiv Nandan Sahai and Anr. Vs. State of Jharkhand and Anr.** reported in **2023 SCC OnLine Jhar 2937** and submits that therein, this Court relied upon the judgment of the Hon'ble Supreme Court of India in the case of **Indian Oil Corporation Vs. NEPC India Ltd. & Ors.**, reported in **(2006) 6 SCC 736**, para -13 of which reads as under:-

"13. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable breakdown of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged. In G. Sagar Suri v. State of U.P. [(2000) 2 SCC 636 : 2000 SCC (Cri) 513] this Court observed: (SCC p. 643, para 8)

"It is to be seen if a matter, which is essentially of a civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which the High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this section has to be exercised to prevent abuse of the process of any court or otherwise to secure the ends of justice."

and submits that therein the Hon'ble Supreme Court of India has taken notice of the growing tendency in business circles

to convert purely civil disputes into criminal cases and submits that in this case also, a purely civil dispute has been given a cloak of criminal case.

9. It is next submitted that as no offence, in respect of which FIR has been registered, is made out against the petitioner even if entire allegations made against the petitioner are considered to be true in their entirety hence, it is submitted that the prayer as made in this Criminal Miscellaneous Petition be allowed.
10. Learned PP and learned senior counsel for the Opp. Party no. 2 on the other hand vehemently oppose the prayer of the petitioner and submits that the investigation of the case is at the nascent state and material is likely to come during the investigation of the case, establishing the involvement of the petitioner in this case in furtherance of the common intention with the co-accused persons, hence, it is submitted that this Criminal Miscellaneous Petition being without any merit, be dismissed.
11. 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 only allegation against the petitioner is that the petitioner is the Managing Director of the company, in the name and the style of M/s Kashish Developers Private Limited and there is absolutely no allegation against the petitioner of outraging the modesty of any woman and in the absence of the same, this court has no hesitation in holding that the offence punishable under Section 354 of IPC is not made out against the petitioner; even if the entire allegations are considered to be true.
12. Further, there is absolutely no allegation against the petitioner of either being entrusted any property or dishonestly misappropriating any entrusted property and in the absence of the same, the offence punishable under section 406 of IPC is not made out; even if the entire allegations are considered to be true.
13. There is no allegation against the petitioner of deceiving anybody or making any inducement to any person to part with any property being so deceived by the petitioner, hence, in the absence

- of the same, offence punishable under section 420 of IPC is not made out; even if the entire allegations are considered to be true.
14. Further, there is no allegation against the petitioner of committing criminal intimidation and hence in the absence of the same, the offence punishable under Section 506 of IPC is not made out even with the aid of Section 34 of the IPC; even if the entire allegations are considered to be true.
15. In view of the discussions made above, as none of the offences in respect of which, the FIR has been registered is made out against the petitioner even if the entire allegations made against the petitioner are considered to be true in their entirety, hence, this Court is of the considered view that continuation of this criminal proceeding against the petitioner will amount to abuse of process of law. Therefore, this is a fit case, where the entire criminal proceeding in connection with Jagarnathpur (Pundag) P.S. case no. 395 of 2022 be quashed and set aside *qua* the petitioner.
16. Accordingly, the entire criminal proceeding in connection with Jagarnathpur (Pundag) P.S. case no. 395 of 2022, is quashed and set aside *qua* the petitioner only.
17. In the result, this Criminal Miscellaneous Petition is allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated, the 5th May, 2026
Smita / AFR

Uploaded on 13.05.2026