IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 1258 of 2020

Manish Kumar, aged about 35 years, son of Ashok Kumar, E-Kart Logistic, Incharge of Harmu Hub, resident of Ranchi, Flat No. 708, Eight Floor, Kaveri-2, Triveni Puram, Booty More Branch, ICICI Bank, Buti, P.O. -Buti, P.S. -Buti, District -Ranchi.

..... Petitioner

Versus

1. The State of Jharkhand
2. Laljit Prasad Sinha, son of Late Kailash Prasad Sinha, resident of House No. 232, Kusai, P.O. -Doranda, P.S.- Doranda, District -Ranchi. ….. Opposite Parties

With

Cr.M.P. No. 441 of 2020

Chandan Kumar, aged about 38 years, son of Ramprit Yadav, Manager, Flipkart Security Team (Flipkart Internet Private Limited), resident of Krishnapuri, Road No.2, P.O. -Chutia, P.S. -Chutia, District Ranchi (Jharkhand).

..... Petitioner

Versus

1. The State of Jharkhand
2. Laljit Prasad Sinha, son of Late Kailash Prasad Sinha, resident of House No. 232, Kusai, P.O.- Doranda, P.S. - Doranda, District -Ranchi.. ….. Opposite Parties

For the Petitioners	: Mr. Indrajit Sinha, Adv. Mr. Ajay Kr. Sah, Adv. Mr. Rishav Kumar, Adv.
For the State	: Ms. Nehala Sharmin, Spl. PP Mr. Rakesh Ranjan, Addl. PP
For the O.P. No. 2	: Mr. Rajesh Kumar, Adv.

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- Heard the parties.

2. Since both these criminal miscellaneous petitions have been filed with the same prayer in respect of the same case, hence, these criminal miscellaneous petitions are being disposed of by this common judgment.

3. These criminal miscellaneous petitions have 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, the First Information Report being Doranda PS case No. 408 of 2019 as well as the order dated 14.10.2020 passed by the learned Judicial Magistrate-XIII, Ranchi, whereby and where under, learned Magistrate has taken cognizance for the offences punishable under Sections 406, 420 of Indian Penal Code.
4. The allegation against the petitioners is that the petitioner of Cr.M.P. No. 1258 of 2020 is in-charge of E-Kart Logistic, Harmu Hub and the petitioner of Cr.M.P. No. 441 of 2020 is the member of Flipkart Security team. The allegations against the petitioners are that the company of the complainant is a seller on Flipkart portal. The complainant was having long standing business of selling on Flipkart portal and many shipment materials of the complainant were not returned by E-cart logistic company to the company of the complainant. The Flipkart shared the digital copy of the proof of delivery of the articles to the complainant. The petitioner of Cr.M.P. No. 1258 of 2020 contacted employees of the complainant company in respect of the loss of materials. The Flipkart did not produce the Physical Proof of Delivery (POD). The petitioners of both these CrMPs, went to the office of the complainant and discussed regarding the digital proof of delivery of the materials. They threatened the employees of the complainant. On 02.04.2018, both the petitioners came to the office of the complainant at Kusai, Doranda and the petitioner of Cr.M.P. No. 441 of 2020 treated the staff of the complainant rudely. It is contended by the complainant that 19 shipments were not received by the officials of the company having price of Rs. 1,06,720/- and 19 shipments were settled in less amount of Rs. 56,649.70/-, so total loss to the complainant was for Rs. 1,63,369/-. The further allegation is that on 02.04.2018, the petitioners abused the complainant and assaulted him and his staff. The complainant filed complaint case no. 1601 of 2018 in the court of learned SDJM,

Ranchi which upon being referred to the police, police registered Doranda P.S. case no. 408 of 2019 and took up the investigation of the case. After completion of the investigation, the police submitted charge sheet against the petitioners after finding that the offences punishable under Section 406, 420 of IPC are made out against the petitioners and learned Magistrate took cognizance of the offence punishable under Section 406 and 420 of IPC against the petitioners.

5. It is submitted by learned counsel for the petitioners that the case is next fixed to 24.08.2026 and the charge has not yet been framed in this case. Learned counsel for the petitioners relying upon the judgment of the Hon'ble Supreme Court of India in the case of **Delhi Race Club (1940) Limited and Others vs. State of Uttar Pradesh and Another** reported in **(2024) 10 SCC 690** wherein, it has been held by the Hon'ble Supreme Court of India that the offences punishable under Section 406 and 420 of IPC can not co-exist for the same occurrence; submits that in this case as cognizance has been taken of both the offences punishable under sections 406 and 420 of the Indian Penal Code, hence, the cognizance is bad in law.

6. Learned counsel for the petitioners next relies upon the judgment of this Court in the case of **Sanjeev Modi vs. the State of Jharkhand and Another** reported in **2026:JHHC:20189** and submits that therein this Court relied upon the judgment of the Hon'ble Supreme Court 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, it has been reiterated by the Hon'ble Supreme Court of India that that unless the accused person has played deception

since the beginning of the transaction between the parties and the intention to cheat has developed later on, the same will not amount to cheating.

7. It is next submitted by learned counsel for the petitioners that in this case, there is absolutely no allegation against the petitioners of playing deception since the beginning of the transaction between the parties and the petitioners are mere employees. It is next submitted that in the case of **Sanjeev Modi vs. the State of Jharkhand and Another (supra),** this court also relied upon its own judgment in the case of **Basudev Marandi & Ors. vs. The State of Jharkhand & Anr.** dated 16.06.2023 **in Cr.M.P. No. 2130 of 2018**, wherein this court discussed ingredients of the offence punishable under Section 406 and 420 of IPC respectively in paragraph no.9 and 12 of the said judgment which reads as under:-

> *9. Having heard the submissions made at the Bar and after going through the materials in the record, it is pertinent to mention here that it is a settled principle of law that in order to establish the offence punishable under Section 406 of Indian Penal Code the following ingredients is to be established*
>
> *(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*
>
> *12. So far as the offence punishable under Section 420 of Indian Penal Code is concerned, the essential ingredients of the said offence is 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*
>
> *as has been held in the case of Mohammed Ibrahim & Ors. vs. State of Bihar & Anr. (supra)*

8. It is next submitted that even if the entire allegations made against the petitioners are considered to be true in their entirety, no offence is made out against the petitioners because there is no allegation against the petitioners of being entrusted with any

property or they having deceived or induced the complainant, in any manner, to part with any property, hence, it is submitted that the prayer as made in this criminal miscellaneous petition be allowed.

9. Learned counsels for the State and learned counsel for the Opp. Party no. 2 on the other hand vehemently oppose the prayer of the petitioners and submit that if the entire allegations made against the petitioners are considered to be true in their entirety, then both the offences punishable under Section 406 and 420 of IPC are made out against the petitioners and submits that this Criminal Miscellaneous Petition being without any merit, be dismissed.

10. Having heard the submissions made at the Bar and after going through materials available in the record, this court finds that the main allegation of entrustment of property is against the Flipkart; which is a company and there is no allegation against the petitioners that the petitioners were involved in any manner at the time of entering into the arrangement by the company of the complainant and the Flipkart, through which, the company of the complainant used to sell his products in Flipkart portal.

11. So far as the offence punishable under Section 420 of IPC is concerned, there is absolutely no allegation against the petitioners of playing deception by either making false or misleading representation or dishonest concealment of any act or omission. There is no allegation against the petitioners of inducing the complainant or his company to deliver any property nor there any allegation that the complainant and his company parted with any property with the petitioners after being induced by the petitioners. Under such circumstances, even if the entire allegations against the petitioners are considered to be true in their entirety, in the considered opinion of this court, the same is insufficient to constitute the offence punishable under Section 420 of IPC.

12. So far as the offence punishable under Section 406 of IPC is concerned, the essential ingredients to constitute the said offence

is that there must be an entrustment of any property to the accused persons of the case. Now coming to the facts of the case, there is absolutely no entrustment of any property to the petitioners and at best, the entrustment is to the Flipkart. Under such circumstances, in the absence of any allegation of entrustment or dishonest misappropriation of any entrusted property, this court is of the considered view that even if the entire allegations against the petitioners are considered to be true in their entirety, still the offence punishable under Section 406 of IPC is not made out.

13. Since neither the offence punishable under Section 420 of IPC nor the offence punishable under Section 406 of IPC is made out against the petitioners even if the entire allegation made against the petitioners are considered to be true in their entirety, hence, this Court is of the considered view that continuation of this criminal proceeding against the petitioners will amount to abuse of process of law. Therefore, this is a fit case where the entire criminal proceeding, including the First Information Report being Doranda PS case No. 408 of 2019 as well as the order dated 14.10.2020 passed by the learned Judicial Magistrate-XIII, Ranchi in connection with the aforesaid case, be quashed and set aside against the petitioners.

14. Accordingly, the entire criminal proceeding, the First Information Report being Doranda PS case No. 408 of 2019 as well as the order dated 14.10.2020 passed by the learned Judicial Magistrate-XIII, Ranchi, is quashed and set aside against the petitioners.

15. In the result, these Criminal Miscellaneous Petitions are allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated, the 17th August, 2026
Smita / AFR
Uploaded on 25.08.2026