IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 3175 of 2024

1. Ranjeet Kumar Barnwal @ Ranjeet Kumar Varnwal, aged about 44 years
2. Rohit Kumar Barnwal @ Rohit Kumar Varnwal, aged about 48 years
3. Rajesh Kumar Barnwal @ Rajesh Kumar Varnwal, aged about 38 years

All s/o Sri Basant Lal Barnwal, r/o Kunwar Singh Colony, P.O. 7 P.S.-Chas, Dist.-Bokaro, Jharkhand

.... Petitioner

Versus

1. The State of Jharkhand
2. Raju Kumar, s/o late Sudhir Sah, r/o Kunwar Singh Colony, P.O. 7 P.S.-Chas, Dist.-Bokaro, Jharkhand

…. Opp. Parties

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

…..

For the Petitioner : Mr. Baibhaw Gahlaut, Advocate
For the State : Mr. Pankaj Kumar, P.P.
For O.P. No.2 : Mr. Gautam Kumar, Advocate
: Mr. Dilip Kr. Jaiswal, Advocate

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By the Court:-

1. Heard the parties.

2. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 528 of B.N.S.S., 2023 with the prayer to quash and set aside the order dated 13.02.2024 passed by the learned Sessions Judge, Bokaro in Criminal Revision No. 93 of 2023 whereby and where under, the learned Sessions Judge, Bokaro dismissed the criminal revision filed against the order dated 13.02.2023 passed by the learned Chief Judicial Magistrate, Bokaro in connection with Chas P.S. Case No.

127 of 2022, corresponding to G.R. No. 231 of 2023 by which the learned Chief Judicial Magistrate, Bokaro took cognizance of the offence punishable under Section 420/34 of the Indian Penal Code differing with the final report submitted by the police.

3. The brief fact of the case is that the petitioners got the sale deed executed by the owner of the land namely Shanti Devi on the basis of the wrong data by including only staircase of both the house of the informant and the petitioners including in their sale deed in connivance with the co-accused-Amin.

4. On the basis of the complaint submitted by the Deputy Commissioner, Bokaro being forwarded to police, Chas P.S. Case No. 127 of 2022 was registered. Police took up investigation of the case and after completion of investigation, the allegation could not be established and submitted the final form and did not send up the petitioner for trial.

5. Learned Chief Judicial Magistrate, Bokaro referred to paragraph nos. 4, 6 and 7 of the case diary and basing upon the same, took cognizance of the offence punishable under Section 420/34 of the Indian Penal Code against the petitioners, differing with the charge sheet.

6. The petitioners filed criminal revision. The learned Sessions Judge, Bokaro did not find any illegality in the order impugned before it passed by the learned Chief Judicial Magistrate, Bokaro and dismissed the criminal revision.

7. It is submitted by the learned counsel for the petitioners that the learned Chief Judicial Magistrate, Bokaro has committed a grave illegality by differing with the charge sheet without assigning any reason as to what materials in paragraph nos.4, 6 and 7 of the case diary prompted her to arrive at the conclusion that the offences punishable under Section 420/34 of the Indian Penal Code is made out. It is next submitted by the learned counsel for the petitioners by relying upon the judgment of the Hon'ble Supreme Court of India in the case of **Nupur Talwar vs. Central Bureau of Investigation** reported in **(2012) 11 SCC 465** that it was observed therein, that it was essential for the Magistrate to highlight, for the perusal of the Court of Sessions, reasons which had weighed her in not accepting the closure report and it was also necessary to narrate what prompted the Magistrate to summon the complainant as an accused. It is further submitted by the learned counsel for the petitioners that even if the entire allegations made against the petitioners are considered to be true in their entirety, still the offence punishable under Section 420/34 of the Indian Penal Code is not made out. Hence, it is submitted that the prayer as prayed for by the petitioners in this criminal miscellaneous petition be allowed.

8. Learned P.P. and the learned counsel for the opposite party no.2 on the other hand vehemently opposes the prayer of the petitioners made in this criminal miscellaneous petition and submits that if the entire allegations made against the petitioners

are considered to be true, then the offence punishable under Section 420/34 of the Indian Penal Code is made out against the petitioners. Hence, it is submitted that this criminal miscellaneous petition being without any merit be dismissed.

9. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, it is pertinent to mention here that the essential ingredients to constitute the offence punishable under Section 420 of the Indian Penal Code are as under:-

> (a) *Deceit, that is to say dishonest or fraudulent misrepresentation; and*
> *(b) Inducing the person deceived to part with property;*

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**.

10. Now coming to the facts of the case, there is absolutely no allegation against the petitioners of inducing any person to part with any property. There is no allegation against the petitioners of resorting to any fraudulent misrepresentation to anyone. The undisputed fact remains that Shanti Devi has executed registered sale deed in favour of the petitioners. Shanti Devi has no grievance against the petitioners. If Shanti Devi was not entitled to sell the property of which she claims to be the owner in the sale deed concerned then it is the petitioners who could have prosecuted Shanti Devi but the informant who is not the party to the sale deed executed by Shanti Devi in favour of the petitioners

has no *locus standi* to institute the offence; in view of the principle of law settled by the Hon'ble Supreme Court of India in the case of **Md. Ibrahim & Ors. Versus State of Bihar & Anr.** reported in **(2009) 8 SCC 751**.

11. In view of the discussions made in the foregoing paragraphs of this Judgement, this Court is of the considered view that at the most, the allegation against the petitioners may constitute a civil dispute but the learned Chief Judicial Magistrate, Bokaro has committed a grave illegality by arriving at the conclusion that the materials in the record is sufficient to constitute the offence punishable under Section 420/34 of the Indian Penal Code and the learned Sessions Judge, Bokaro has also committed a grave illegality in not appreciating the illegality committed by the learned Chief Judicial Magistrate, Bokaro while passing the impugned order dated 13.02.2024 in Criminal Revision No. 93 of 2023. Since no offence is made up against the petitioners, even if the entire allegations made against them are considered to be true in their entirety, therefore, the continuity of this criminal proceeding against them will amount to abuse of process of law.

12. Accordingly, the order dated 13.02.2024 passed by the learned Sessions Judge, Bokaro in Criminal Revision No. 93 of 2023 and the order dated 13.02.2023 passed by the learned Chief Judicial Magistrate, Bokaro in connection with Chas P.S. Case No. 127 of 2022, corresponding to G.R. No. 231 of 2023 are not sustainable in law and the same are quashed and set aside.

13. In the result, this criminal miscellaneous petition is allowed to the aforesaid extent only.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 6th July, 2026
AFR/Gunjan/-

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