IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73784 of 2024

Arising Out of PS. Case No.-1998 Year-2022 Thana- BHAGALPUR COMPLAINT CASE District- Bhagalpur

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Amar Kumar Yadav @ Amar Prasad Yadav S/o Late Bishundeo Prasad Yadav R/o vill - Bhim Kitta, P.o.- Nathnagar, P.S. - Madhusudanpur, Dist. - Bhagalpur

... ... Petitioner/s

Versus

1. The State of Bihar
2. Mosmat Sunaina Devi W/o Late Suresh Prasad Yadav R/o vill - Bhim Kitta, P.O.- Nathnagar, P.S. - Madhusudanpur, Distt. - Bhagalpur (Complainant)

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Diwakar Upadhyaya, Advocate.
For the State	:	Mrs.Rita Verma, APP.
For O.P. No.2	:	Ms. Huma, Advocate.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL JUDGMENT

Date : 25-09-2025

Heard Mr. Diwakar Upadhyaya, learned counsel appearing on behalf of the petitioner; Mrs. Rita Verma, learned APP for the State and Ms. Huma, learned counsel for the Opposite Party no.2.

2. The present application has been filed under Section 482 Cr.P.C. for quashing of the order taking cognizance dated 18.10.2023 in connection with Complaint Case No.1998 of 2022, whereby cognizance has been taken by the learned

Judicial Magistrate 1st Class, Bhagalpur under Sections 420 and 467 of the Indian Penal Code.

3. As per the allegation made in the complaint, the complainant alleges that the petitioner Amar Kumar Yadav, has falsely represented Late Mahadev Prasad Yadav (her deceased husband's father) as his own father in official documents, such as the Aadhaar card and Police Service Register. In reality, the petitioner is the son of Late Bishundeo Prasad Yadav, as shown in various title deeds, Lagan receipts, and the Jamabandi Register. It is further alleged that the petitioner while serving as a Hawaldar, used this false identity to gain benefits and continues to threaten the complainant, claiming a share in her late husband's property. An RTI reply from the Police Department confirmed that no person named Amar Kumar Yadav, son of Late Mahadev Prasad Yadav, is employed in Bhagalpur District Police. The complainant alleges that the petitioner has committed impersonation and cheating for wrongful gain and is unlawfully attempting to claim rights over her deceased husband's property

4. Learned counsel appearing on behalf of the petitioner submitted that from plain reading of the complaint, no offence under Sections 420 and 467 of the Indian Penal Code

can be made out. Learned counsel, in this regard, has submitted that only vague allegation has been alleged against the petitioner that he abuses the complainant who is the wife of his cousin brother and she has apprehension that the petitioner will dispose of her share in the property. It has also been alleged that the petitioner is a retired Hawaldar and there are criminal cases pending against him. Learned counsel has drawn attention of this Court to different paragraphs of the complaint to show that no case is made out, particularly Paragraph Nos. Anga, cha, chha, ja and jha. On this ground, learned counsel submitted that the case is covered by the conditions mentioned in Para-102 of the judgment rendered by the Apex Court in the case of **State of Haryana Vs. Bhajanlal, reported in (1992) Supp (1) SCC 335**. The complainant is in peaceful possession of her share of land and, if at all, complainant is aggrieved, she can avail remedy of partition suit before the Civil Court having jurisdiction. Learned counsel submitted that in absence of any criminality, no case is made out against the petitioner under Sections 420 and 467 of the Indian Penal Code and seeks quashing of the order taking cognizance dated 18.10.2023.

5. *Per contra,* Ms. Huma has tendered her appearance on behalf of the complainant and has submitted that

the petitioner is agnate and he has played fraud with the complainant and the Revenue Officers by giving incorrect information that he is the son of Bishundeo Prasad Yadav which shows that the petitioner has indulged in cheating by giving incorrect information to the revenue department for the purpose of possession of 18.25 decimal of land to which the complainant is also entitled for her share. Learned counsel further submitted that the petitioner cannot play with the records, at the same time, he has not come before this Court with clean hands by giving information in cause title that he is the son of Late Bishundeo Prasad Yadav and not the son of Bishun Prasad Yadav.

6. Heard the parties.

7. Before I proceed, I find it proper to reproduce the provision of Sections 420 and 467 of the Indian Penal Code, under which cognizance has been taken by the learned District Court.

> **“Section 420. Cheating and dishonestly inducing delivery of property**.—Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.
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> **Section 467. Forgery of valuable security, will, etc.**—Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends

> thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security, shall be punished with 4[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

8. I have perused the cause title of the complaint in which the complainant has claimed herself to be wife of Late Suresh Prasad Yadav and the petitioner to be son of Late Bishundeo Deo Prasad Yadav. The complainant has claimed that she is cousin sister-in-law of the petitioner, who at the time of lodging of the complaint was Hawaldar in the State Police. The main allegation against the petitioner is that petitioner had allegedly got his name entered into the revenue records in respect of 18.25 decimal of land which was purchased by him on 20.11.1998. Further allegation is that the complainant has apprehension that the petitioner can sell the share of the joint property any time having given threatening in this regard to the complainant. In view of the allegation, I find that the matter relates to partition of certain ancestral property between the parties and calling for criminal prosecution for the same will be abuse of process of the law, in view of the fact that no criminality is made out as per the allegation made in the complainant.

9. At this stage, both the parties jointly inform this

Court that they are ready to enter into compromise to give rest to the litigation and they will try to settle the dispute amicably outside the Court.

10. Law in this regard is well settled by the Apex Court in the case of ***Paramjeet Batra v. State of Uttarakhand*** reported in ***(2013) 11 SCC 673***, in which, the Apex Court in paragraph no. 12 has held as follows:

> *"**12.** While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process of the court."*

11. The Apex Court has reiterated the aforesaid proposition in recent judgment of ***S. N. Vijayalakshmi & Ors. vrs. The State of Karnataka and Anr.*** reported in ***(2025) SCC Online SC 1575***.

12. The Apex Court while considering the content of ingredients of Sections 406 and 420 of the Indian Penal Code in the case of ***Delhi Race Club (1940) Ltd. & Ors. vs. State of***

Uttar Pradesh & Anr. in Criminal Appeal No. 3114 of 2024, after discussing the earlier law laid down in several cases, has observed in paragraphs nos. 35, 36 and 37, *inter alia* as follows:

> ***Difference between criminal breach of trust and cheating***
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> ***35.*** *This Court in its decision in S.W. Palanitkar v. State of Bihar S.W. Palanitkar v. State of Bihar, (2002) 1 SCC 241 expounded the difference in the ingredients required for constituting of an offence of criminal breach of trust (Section 406 IPC) vis-à-vis the offence of cheating (Section 420). The relevant observations read as under :*
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> *"9. The ingredients in order to constitute a criminal breach of trust are : (i) entrusting a person with property or with any dominion over property; (ii) that person entrusted : (a) dishonestly misappropriating or converting that property to his own use; or (b) dishonestly using or disposing of that property or wilfully suffering any other person so to do in violation (i) of any direction of law prescribing the mode in which such trust is to be discharged, (ii) of any legal contract made, touching the discharge of such trust.*
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> *10. The ingredients of an offence of cheating are : (i) there should be fraudulent or dishonest inducement of a person by deceiving him, (ii)(a) the person so deceived should be induced to deliver any property to any person, or to consent that any person shall retain any property; or (b) the person so deceived should be intentionally induced to do or omit to do anything which he would not do or omit if he were not so deceived; and (iii) in cases covered by (ii) (b), the act of omission should be one which causes or is likely to cause damage or harm to the person induced in body, mind, reputation or property."*
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> ***36.*** *What can be discerned from the above is that the offences of criminal breach of trust (Section 406 IPC) and cheating (Section 420 IPC) have specific ingredients:*
>
> ***In order to constitute a criminal breach of trust (Section 406 IPC)***
>
> *(1) There must be entrustment with person for property or dominion over the property, and*
>
> *(2) The person entrusted:*
>
> *(a) Dishonestly misappropriated or converted*

property to his own use, or

(b) Dishonestly used or disposed of the property or wilfully suffers any other person so to do in violation of:

(i) Any direction of law prescribing the method in which the trust is discharged; or

(ii) Legal contract touching the discharge of trust (see : S.W. Palanitkar [S.W. Palanitkar v. State of Bihar, (2002) 1 SCC 241.

Similarly, in respect of an offence under Section 420IPC, the essential ingredients are:

(1) Deception of any person, either by making a false or misleading representation or by other action or by omission;

(2) Fraudulently or dishonestly inducing any person to deliver any property, or

(3) The consent that any person shall retain any property and finally intentionally inducing that person to do or omit to do anything which he would not do or omit (see : Harmanpreet Singh Ahluwalia v. State of Punjab [Harmanpreet Singh Ahluwalia v. State of Punjab, (2009) 7 SCC 712.

***37.** Further, in both the aforesaid sections, mens rea i.e. intention to defraud or the dishonest intention must be present, and in the case of cheating it must be there from the very beginning or inception."*

13. The dispute between the parties is purely civil in nature and the parties have willingly desired to appear before the learned District Court on 31.10.2025 at 10:30 AM, so that the matter can be referred to the District Mediation Centre.

14. Learned District Court is directed to take necessary steps to refer the matter before the learned Mediator of the District Mediation Center.

15. Learned Mediator of the District Mediation Center concerned shall make his/her best efforts to settle the dispute

amicably and thereafter submit his/her report before the concerned learned District Court, well within a period of four months, till then, no coercive action shall be taken against the petitioner in connection with the aforesaid case.

16. In case of failure on the part of the petitioner to appear on 31.10.2025 before the learned District Court or any date fixed by the learned Mediator, the interim protection granted to the petitioner shall automatically lose its force.

17. In case, the parties fail to reconcile, then in that case, the learned District Court shall proceed with the trial.

18. In case, the parties resolve their dispute amicably, then the proceeding is required to be dropped in light of the law laid down by the Apex Court as referred hereinabove.

19. Accordingly, the present quashing application stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	27.09.2025
Transmission Date	N.A.