IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 1603 of 2024

Mahendra Chourasiya, aged about 34 years, Son of Ganesh Chourasia, Resident of Budihbir, P.O. –Harinamar, P.S. –Chainpur, District - Palamau.

.... Petitioner

Versus

1. The State of Jharkhand
2. Deepak Kumar, S/o Mritunjay Prasad, R/o Ambedkar Colony, Block No.7, P.O. –Dhori, P.S. –Bermo, District –Bokaro, Jharkhand.

…. Opp. Parties

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

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For the Petitioner : Mr. Santosh Kr. Tiwari, Advocate
For the State : Mr. Sunil Kr. Dubey, Addl. P.P.

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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 482 of the Code of Criminal Procedure with the prayer to quash the order dated 19.08.2023 along with the entire criminal proceeding of Bermo P.S. Case No. 128 of 2017 corresponding to G.R. Case No. 821 of 2017 in which the learned Sub Divisional Judicial Magistrate, Bermo at Tenughat has taken cognizance of the offence punishable under Section 420 of the Indian Penal Code against the petitioner.

3. The allegation against the petitioner is that the petitioner purchased several articles from the informant and on each

purchase he made underpayment by making some amount due and ultimately a sum of Rs.1,11,200/- had become due and payable out of which the petitioner transferred Rs.15,000/- to the bank account of the complainant but did not pay the remaining amount of Rs.96,200/-.

4. It is submitted by the learned counsel for the petitioner relying upon the Judgment of Hon'ble the Supreme Court of India in the case of **Ashok Kumar Jain Vs. The State of Gujarat & Another**, reported in **2025 INSC 614**, wherein the Hon'ble Supreme Court of India relied upon its own Judgment in the case of **Prof. R.K. Vijayasarathy and Anr. Vs. Sudha Seetharam and Anr.**, reported in **(2019) 16 SCC 739** para -16 to 18 of which reads as under:-

> *"16. The ingredients to constitute an offence of cheating are as follows:*
> *16.1. There should be fraudulent or dishonest inducement of a person by deceiving him:*
> *16.1.1. The person so induced should be intentionally induced to deliver any property to any person or to consent that any person shall retain any property, or*
> *16.1.2. The person so induced should be intentionally induced to do or to omit to do anything which he would not do or omit if he were not so deceived; and*
> *16.2. In cases covered by 16.1.2. above, the act or omission should be one which caused or is likely to cause damage or harm to the person induced in body, mind, reputation or property.*
> *17. A fraudulent or dishonest inducement is an essential ingredient of the offence. A person who dishonestly induces another person to deliver any property is liable for the offence of cheating.*
> *18. Section 420 of the Penal Code reads thus:*
> *"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."*

Wherein the Hon'ble Supreme Court of India has laid down the essential ingredients to constitute the offence punishable under Section 420 of the Indian Penal Code and in that case, the Hon'ble Supreme Court of India also relied upon the Judgment of **AM Mohan Vs. State Represented by SHO & Another**, reported in **2024 INSC 233,** para -13 of which reads as under:-

> *"13. It could thus be seen that for attracting the provision of Section 420 of IPC, the FIR/complaint must show that the ingredients of Section 415 of IPC are made out and the person cheated must have been dishonestly induced to deliver the property to any person; or to make, alter or destroy valuable security or anything signed or sealed and capable of being converted into valuable security. In other words, for attracting the provisions of Section 420 of IPC, it must be shown that the FIR/complaint discloses:*
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> *(i) the deception of any person;*
> *(ii) fraudulently or dishonestly inducing that person to deliver any property to any person; and*
> *(iii) dishonest intention of the accused at the time of making the inducement."*

Wherein also the ingredients of Section 420 of the Indian Penal Code have been discussed. It is next submitted that even if the entire allegations made against the petitioner are considered to be true in their entirety, still the offence punishable under Section 420 of the Indian Penal Code is not made out. Hence, it is submitted that the prayer as prayed for by the petitioner in this criminal miscellaneous petition be allowed.

5. The learned Addl. P.P. on the other hand vehemently opposes the prayer as prayed for by the petitioner in this criminal miscellaneous petition and submits that the allegations made in the F.I.R. is sufficient to constitute the offence punishable under Section 420 of the Indian Penal Code. Hence, it is submitted that this criminal miscellaneous petition being without any merit be dismissed.

6. Having heard the submissions made at the Bar and after going through the materials available in the record, it is pertinent to mention here that it is a settled principle of law as has been held by the Hon'ble Supreme Court of India in the case of **Vir Prakash Sharma vs. Anil Kumar Agarwal & Another** reported in **(2007) 7 SCC 373**, para-8 of which reads as under: -

> *"8. The dispute between the parties herein is essentially a civil dispute. Non-payment or underpayment of the price of the goods by itself does not amount to commission of an offence of cheating or criminal breach of trust. No offence, having regard to the definition of criminal breach of trust contained in Section 405 of the Penal Code can be said to have been made out in the instant case. Section 405 of the Penal Code reads, thus:*
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> > *"405. Criminal breach of trust.—Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits 'criminal breach of trust'." Neither any allegation has been made to show existence of the ingredients of the*

> *aforementioned provision nor any statement in that behalf has been made." (Emphasis supplied)*

that if the dispute between the parties is essentially a civil dispute, non-payment or under-payment of the price of the goods by itself does not amount to commission of an offence of cheating or criminal breach of trust.

7. Now coming to the facts of the case, the only allegation against the petitioner is that the petitioner has made under payment of some of the articles purchased by him but there is no allegation against the petitioner of playing deception since the beginning of the transactions between the parties.

8. Under such circumstances, this Court is of the considered view that even if the entire allegations made against the petitioner are considered to be true in their entirety, still the offence punishable under Section 420 of the Indian Penal Code is not made out. Therefore, continuation of this criminal proceeding against the petitioner will amount to abuse of process of law. Hence, this is a fit case where the order dated 19.08.2023 along with the entire criminal proceeding of Bermo P.S. Case No. 128 of 2017 corresponding to G.R. Case No. 821 of 2017 in which the learned Sub Divisional Judicial Magistrate, Bermo at Tenughat has taken cognizance of the offence punishable under Section 420 of the Indian Penal Code against the petitioner, be quashed and set aside *qua* the petitioner.

9. Accordingly, the order dated 19.08.2023 along with the entire criminal proceeding of Bermo P.S. Case No. 128 of 2017 corresponding to G.R. Case No. 821 of 2017 in which the learned Sub Divisional Judicial Magistrate, Bermo at Tenughat has taken cognizance of the offence punishable under Section 420 of the Indian Penal Code against the petitioner, is quashed and set aside *qua* the petitioner.

10. In the result this criminal miscellaneous petition is allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 23rd December, 2025
AFR/Sonu-Gunjan/-

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