# IN THE HIGH COURT OF JHARKHAND AT RANCHI
## Cr.M.P. No.2441 of 2020

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Krishna Kumar Prasad son of Ram Kumar Prasad, aged about 75 years, resident of Flat No.204-A, Ramnik Apartment, Judged Colony, R.P.S. More, Danapur, P.O., P.S. and District-Patna.

… Petitioner

***Versus***

1. The State of Jharkhand

2. Pushpam Lata Prasad wife of Sanjay Kumar, Resident of M/10 Phase-2 above the shop, Prem Chandra Nagar Colony, P.O. Pandeipur, District- Varanasi.

… Opposite Parties

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For the Petitioner : Mr. Vibhor Mayank, Advocate
For the State : Mr. Manoj Kumar, GA-III
: Mr. Rakesh Kr. Roy, AC to GA-III
For the O.P. No.2 : Mr. Rakesh Kumar, Advocate

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**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 the Code of Criminal Procedure, 1973 with the prayer to quash the entire criminal proceeding as well as the order taking cognizance dated 20.06.2019 passed in Complaint Case No.1596 of 2016 by the learned Judicial Magistrate-1st Class, Ranchi whereby and whereunder the learned Judicial Magistrate-1st Class, Ranchi has found *prima facie* case for the offences punishable under Sections 418, 467, 468 and 34 of the Indian Pena Code.

3. Learned counsel for the petitioner submits that the allegation against the petitioner is that the petitioner knowing that the property is a joint property and knowing pretty well that a partition suit was going on between the petitioner and his coparceners has sold the joint property to the co-accused Dr. Shambhu Prasad Singh, who purchased the joint property.

4. Learned counsel for the petitioner next submits that the allegation against the petitioner is false. It is next submitted that even though the entire allegation made against the petitioner in the complaint, statement on solemn affirmation and the statement of the enquiry witnesses are considered to be true in their entirety still neither the offence punishable under Section 418 nor the offence punishable under Section 467, 468 of the Indian Penal Code is made out against the petitioner, even with the aid of Section 34 of the Indian Penal Code. It is next submitted that this Court has already quashed the entire criminal proceeding against the co-accused person Dr. Shambhu Prasad Singh by the judgement dated 07.08.2025 in Cr.M.P. No.2997 of 2019. Hence, it is submitted that the prayer, as prayed for in the instant Cr.M.P., be allowed.

5. Learned counsel appearing for the State and the learned counsel for the opposite party No.2 on the other hand vehemently oppose the prayer of the petitioner made in the instant Cr.M.P. and submit that if the allegations made against the petitioner are considered to be true in their entirety, then all the offences i.e., the offence punishable under Section 418, 467 and 468 of the Indian Penal Code with the aid of Section 34 of the

Indian Penal Code is made out against the petitioner. Hence, it is submitted that this Cr.M.P., being without any merit, be dismissed.

6. 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 so far as the offence punishable under Section 418 of the Indian Penal Code is concerned, the essential ingredient to constitute the said offence are as under:-

(1) The accused cheated a person;

(2) At the time of offence accused was bound by law or legal contract to protect the interests of the person whom he cheated;

(3) The obligation related to the transaction involving the cheating;

(4) The accused had the knowledge that his act was likely to cause wrongful loss to the person; whose interest he was bound to protect.

7. Thus, it is pertinent to mention here that to constitute the offence of cheating, the essential ingredients are:-

(i) Deception of a person either by making a false or misleading representation or by dishonest concealment or by 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 reiterated by the Hon'ble Supreme Court of India in the case of **Mohammed Ibrahim & Others. Vs. State of Bihar** reported in **(2009) 8 SCC 751**.

8. Now, coming to the facts of the case, there is absolutely no allegation against the petitioner of playing deception with the complainant or any person either by himself or in furtherance of common intention with the co-accused person nor is there any allegation against petitioner of inducing any person deceived to deliver any property, either by himself or in furtherance of the common intention with the co-accused persons. In the absence of this essential ingredient to constitute the offence of cheating which is also the essential ingredient to constitute the offence punishable under Section 418 of the Indian Penal Code, 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 418 of the Indian Penal Code is not made out against the petitioner.

9. So far as the offence punishable under Sections 467 and 468 of the Indian Penal Code are concerned, the essential ingredients to constitute the said two offence is forgery and to constitute the offence of forgery,

making of a false document is a *sine qua non.* The essential ingredient to constitute the offence of forgery are:-

(i) The accused prepared a false document or electronic record;

(ii) He did it with false meaning of written instrument for the purpose of fraud or deceit;

(iii) The document or electronic record was prepared dishonestly or fraudulently;

(iv) He did it with the intention of causing wrongful gain to someone and wrongful loss to another.

10. Now, coming to the facts of the case, there is absolutely no allegation against the petitioner of either individually or in furtherance of common intention with the co-accused person of making any false document. There is no allegation against the petitioner of dishonestly or fraudulently making, signing, putting seal or executing any document or part of a document nor is there any allegation against the petitioner either individually or in furtherance of common intention with the co-accused person dishonestly and fraudulently making or transmitting any electronic record or part of any electronic record nor is there any allegation against the petitioner either individually or otherwise affixing any electronic signature or any electronic record nor is there any allegation of either individually or otherwise dishonestly and fraudulently making any mark denoting the execution of a document or the authenticity of electronic signature.

11. In the absence of any allegation against the petitioner of committing forgery either individually or in furtherance of common intention with the co-accused person, this Court has no hesitation in holding that neither the offence punishable under Section 467 nor the offence punishable under Section 468 of the Indian Penal Code is made out against the petitioner; even if the entire allegations made against the petitioner are considered to be true in their entirety. Hence, the 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 as well as the order taking cognizance dated 20.06.2019 passed in Complaint Case No.1596 of 2016 by the learned Judicial Magistrate-1st Class, Ranchi, be quashed and set aside.

12. Accordingly, the entire criminal proceeding as well as the order taking cognizance dated 20.06.2019 passed in Complaint Case No.1596 of 2016 by the learned Judicial Magistrate-1st Class, Ranchi, is quashed and set aside *qua* the petitioner only.

13. In the result, this Cr.M.P. stands allowed.

**(Anil Kumar Choudhary, J.)**

High Court of Jharkhand, Ranchi
Dated the 22nd of December, 2025
AFR/ Abhiraj

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