IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 470 of 2026

Pravin Kumar, aged about 36 years, son of Suresh Saw @ Suresh Mistri, resident of Naiki Talab, P.O & P.S. & Dist.- Chatra ..... Petitioner

Versus

The State of Jharkhand

….. Opposite Parties

For the Petitioner : Mr. Rajesh Kumar, Adv.
Mr. Manish Yadav, Adv.
For the State : Ms. Vandana Bharti, Addl. PP

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 528 of the BNSS, 2023 with the prayer for quashing and setting aside the entire criminal proceeding in connection with F.I.R. being Chatra Sadar P.S. Case No. 90 of 2025 registered for the offences punishable under Section 316(2), 318(4) of the BNS, 2023.

3. The allegation against the petitioner is that the petitioner was given the Modern Dak Bungalow on lease for a period of three years. An agreement was entered into with the petitioner according to which the lease amount was to be deposited by the petitioner after the period of each six months but he violated the condition of lease and did not deposit the lease amount even after several notices and the outstanding lease amount is Rs.34,06,168/- causing loss of revenue to the Zila Parishad. On the basis of the written report submitted by the Executive Officer of the Zila Parishad, Chatra, Chatra Sadar P.S. Case No. 90 of 2025 has been registered. It is submitted by the learned counsel for the petitioner that police is still investigating in the case and charge sheet has

not yet been submitted. It is next submitted by the learned counsel for the petitioner that the allegations against the petitioner are false. It is then submitted that the District Rural Development Authority, Chatra and the Deputy Development Commissioner-cum-Chief Officer, Zila Parishad, Chatra booked rooms in the said Dak Bungalow and have not cleared the outstanding bills of Rs. 34,06,168/-. It is then submitted that though the staff of Nagar Parishad, Chatra took the keys of the Dak Bungalow on the ground of official inspection but the keys have not yet been returned to the petitioner. It is further submitted that the allegation against the petitioner is false. It is next submitted that even if the entire allegations made against the petitioner are considered to be true in their entirety still neither of the offences in respect of which the F.I.R. has been registered is made out and at the most, the dispute between the parties may be a civil dispute and this F.I.R. has been lodged only for the purpose of wreaking vengeance against the petitioner. Hence, it is submitted that the prayer as prayed for by the petitioner in this criminal miscellaneous petition be allowed.

4. The learned Additional Public Prosecutor appearing for the State on the other hand vehemently opposes the prayer as prayed for by the petitioner in this criminal miscellaneous petition and submits that the materials in the record are sufficient to constitute both the offences punishable under Section 316(2) and 318(4) of the B.N.S. Hence, it is submitted that this criminal miscellaneous petition being without any merit be dismissed.

5. 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 the essential ingredients to constitute the offence punishable under Section 316(2) of the B.N.S. which corresponds to Section 406 of the Indian Penal Code, is that there must be a dishonest misappropriation of the entrusted property etc.

6. Now coming to the facts of the case, there is no allegation against the petitioner of being entrusted with any property. The Modern Dak Bungalow which was taken on lease by the petitioner for three years is no more in the possession of the petitioner within the lease period of three years. In the absence of any allegation of entrustment of property against the petitioner, the question of dishonest misappropriation of the entrusted property does not arise.
7. In view of the discussions made above, this Court is of the considered view that even if the entire allegation made against the petitioner are considered to be true in their entirety, still the offence punishable under Section 316(2) of the B.N.S. is not made out.
8. So far as the offence punishable under Section 318(4) of the B.N.S. which corresponds to Section 420 of the Indian Penal Code is concerned, it is a settled principle of law as has been held by the Hon'ble Supreme Court of India in the case of **Uma Shankar Gopalika vs. State of Bihar & Anr.** reported in **(2005) 10 SCC 336,** paragraph no. 6 of which reads as under :-

> *"Xxxx xxxx xxxx 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)*

that in order to constitute the offence of cheating, the accused person must play deception with the victim since the beginning of the transaction between the parties.

9. Now coming to the facts of the case, there is no allegation against the petitioner of playing any deception since the beginning of the transaction between the parties. In the absence, of the same, this Court has no hesitation in holding that even if the entire allegations made against the petitioner are considered to be true in their entirety, still the offence punishable under Section 318(4) of the BNS is not made out.

10. In view of the discussions made above, as neither the offence punishable under Section 316(2) nor the offence punishable under Section 318(4) of the BNS is made out, even if the entire allegations made against the petitioner are considered to be true in their entirety, hence this Court is of the considered view that continuation of the criminal proceeding against the petitioner will amount to abuse of process of law. Therefore, this is a fit case where the entire criminal proceeding in connection with F.I.R. being Chatra Sadar P.S. Case No. 90 of 2025 registered for the offences punishable under Section 316(2), 318(4) of the BNS, 2023 be quashed and set aside *qua* the petitioner.
11. Accordingly, entire criminal proceeding in connection with F.I.R. being Chatra Sadar P.S. Case No. 90 of 2025 registered for the offences punishable under Section 316(2), 318(4) of the BNS, 2023, is quashed and set aside *qua* the petitioner.
12. In the result, this Criminal Miscellaneous Petition is allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated, the 24th February, 2026
Smita / AFR

Uploaded on 25.02.2026