IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.880 of 2025
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1. Yasmin Ara, aged about 62 years, wife of Sarwar Faiz, resident of Azad Nagar, Road No. 1, P.O. Pelawal, P.S. Katkamsandi, District Hazaribag

2. Shaiyad Gazali @ Ghazali Shiban, aged 35 years, son of Syed Zafar Ullah, resident of 212B, Nawab Gunj, Jheel Road, Majar Sharief, P.O. Hazaribag, P.S. Sadar (Hazaribag), District Hazaribag

… Petitioners

Versus

1. The State of Jharkhand

2. Md. Yasir Hafiz, son of Md. Aslam Ansari, resident of Friends Colony, Pagmil, Hazaribag, P.O. Hazaribag, P.S. Lohsinghna, District Hazaribag … Opposite Parties

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For the Petitioners : Mr. Pratik Sen, Advocate
For the State : Mr. Vineet Kr. Vashistha, Spl.P.P.
For the O.P. No.2 : Mr. Gautam Kr. Pandey, Advocate

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- **I.A. No.13091 of 2026**

Heard the parties.

Learned counsel for the petitioners submits that this interlocutory application has been filed for early hearing of this Cr.M.P.

Since, the hearing of this Cr.M.P. is taken up today, hence, this interlocutory application stands disposed of being infructuous.

(Anil Kumar Choudhary, J.)

Cr.M.P. No.880 of 2025

This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 528 of the B.N.S.S., 2023 with the prayer to quash the entire criminal proceedings including the order dated 13.08.2024 passed in connection with Complaint Case No.505 of 2023 by the learned Additional Chief Judicial Magistrate, Hazaribagh whereby and where under the learned Magistrate has found *prima facie* case for the offences punishable under Sections 417, 323, 341 of the Indian Penal Code and issued summons to the petitioners to face the trial and during the pendency of this Cr.M.P., the learned Additional Chief Judicial Magistrate, Hazaribagh, vide order dated 16.12.2025 explained the substance of accusation for the offence punishable under Section 417, 323, 341 of the Indian Penal Code.

2. Learned counsel for the petitioners submits that in the meanwhile one witness has been examined who has supported the case of the prosecution. Learned counsel for the petitioners relies upon the judgment of this Court in the case of **Sanjeev Kumar & Another vs. The State of Jharkhand & Another** reported in **2026:JHHC:946** reported in **Cr.M.P. No.3253 of 2024** and submits that therein this Court relied upon the judgment of the Hon'ble Supreme Court of India in the case of **Uma Shankar Gopalika vs. State of Bihar & Another** reported in **(2005) 10 SCC 336** paragraph-6 of which reads as under:-

> *"**6**. 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)*

Wherein the Hon'ble Supreme Court of India has reiterated the settled principle of law 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 and if the intention to cheat has developed later on, the same cannot amount to cheating.

3. Learned counsel for the petitioners next relies upon the judgment of this Court in the case of **Khalid Eqbal vs. The State of Jharkhand & Another** reported in **2026:JHHC:21458** passed in **Cr.M.P. No.2725 of 2025** and submits that therein this Court in paragraph-11 to 13 of the said judgment, dealt with the essential ingredients to constitute the offences punishable under Section 323 and 341 of the Indian Penal Code.

4. Learned counsel for the petitioners next relies upon the judgment of this Court in the case of **Uttam Kumar Mahato @ Uttam Kumar vs. The State of Jharkhand & Others** reported in **2025:JHHC:36808** wherein this Court discussed the ingredients of the offences punishable under Sections 323 and 341 of the Indian Penal Code in paragraph Nos.13 to 15.

5. It is next submitted that the statement of the complainant on solemn affirmation and the statement of the witnesses narrate an

occurrence of 12.02.2023. It is further submitted that the petitioners obtained the certified copy of the complaint and the same is a different from the copy which was supplied to them by the complainant. It is further submitted that the petitioners are innocent and no offence is made out against them even if the allegations made against them are treated to be true. Hence, it is submitted that the prayer, as prayed for in this Cr.M.P., be allowed.

6. Learned Spl. P. P. appearing for the State and the learned counsel for the opposite party No.2 on the other hand vehemently oppose the prayer of the petitioners made in the instant Cr.M.P. and submit that there is direct and specific allegation against the petitioners that the petitioners on 05.02.2023, caused hurt to the informant and cheated the informant of Rs.19.70 lakhs. There is also allegation against the petitioners of wrongfully restraining the brother of the informant. The P.W.-1 has categorically stated about the occurrence which took place on 05.02.2023 in which the petitioners also indulged in the act of causing hurt to the informant- P.W.-1 himself and his father. In paragraph-13 of his cross-examination, the P.W.-1 has categorically stated that his brother namely Md. Yasir Hafeez sustained injury in the occurrence and the same has remained unrebutted.

7. Learned Spl. P. P. appearing for the State relies upon the judgment of the Hon'ble Supreme Court of India in the case of **Lakshman Singh vs. State of Bihar (now Jharkhand)** reported in **(2021) 9 SCC 191** and submits that in paragraph-11 thereof the Hon'ble

Supreme Court of India has categorically held that production of injury report for the offence punishable under Section 323 of the Indian Penal Code is not a *sine qua non* for establishing the said offence.

8. Learned Spl. P. P. appearing for the State and the learned counsel for the opposite party No.2 next rely upon the judgment of the Hon'ble Supreme Court of India in the case of **Sanofi India Ltd. vs. Central Bureau of Investigation** reported in **2026 SCC OnLine SC 1790** and submits that in paragraph-177 it has been held that the inquiry in respect of a complaint is confined to examining whether the allegations, taken at face value, without addition or subtraction, disclose the commission of an offence and power cannot be exercised on an assessment of whether the allegations are likely to be established at trial, or whether sufficient evidence exists to sustain them, i.e., the High Court at this stage cannot delve into appreciating evidence or conducting a mini trial as has been held by the Hon'ble Supreme Court of India in the case of **Abhishek Singh vs. Ajay Kumar & Others** reported in **2025 INSC 807**.

9. It is next submitted that there is allegation of cheating of Rs.19.70 lakhs. There is further allegation of wrongfully restraining the brother of the informant and there is also allegation of causing hurt which has been corroborated by the P.W.-1 and at this stage, this Court in exercise of the power under Section 528 of the B.N.S.S., 2023 cannot appreciate the evidence which has already come in the record through the P.W.-1,

therefore, it is submitted that this Cr.M.P., being without any merit, be dismissed.

10. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, this Court has no hesitation in holding that it is a settled principle of law that the offence punishable under Section 323 of the Indian Penal Code can be established without the medical report.

11. Now, coming to the facts of the case; substantive evidence has already come on record during the trial and in the cross-examination in paragraph-13 of the P.W.-1- that is the complainant, he has categorically stated that Md. Yasir Hafiz sustained injuries. So, merely because he did not go to the doctor that will not absolve the petitioners of the offences punishable under Section 323 of the Indian Penal Code.

12. So far as the judgment in the case of **Abshishek Saxena vs. State of Uttar Pradesh & Another** reported in **2023 SCC OnLine SC 1711** is concerned, in the facts of that case there was only allegation that 'they beat me up' as stated by the complainant but here in addition to beating being done by the petitioners, the undisputed evidence has also come on record that the victim has sustained injury and the same has been elicited in the cross-examination of the P.W.-1. So, the ratio of **Abshishek Saxena vs. State of Uttar Pradesh & Another (supra),** is not attracted to the facts of the case. Further, there is allegation against the petitioners of cheating and thereby fraudulently taking away Rs.19.70 lakhs from the complainant and further there is allegation of wrongful

restrain also. Under such facts of the case as the trial of the case has already begun and one of the witnesses has already been examined, this Court is of the considered view that this is not a fit case where the prayer made by the petitioners in this Cr.M.P. is to be acceded to in exercise of the power of this Court under Section 528 of the B.N.S.S., 2023.

13. Accordingly, this Cr.M.P., being without any merit, is dismissed.

14. In view of disposal of the instant Cr.M.P., pending interlocutory application, if any, stands disposed of being infructuous.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 21st of September, 2026
AFR/ Animesh
Uploaded on- 24/09/2026