**IN THE HIGH COURT OF JHARKHAND AT RANCHI**
**Cr.M.P. No.2006 of 2021**
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1. Amit Kumar Singh, Aged about 33 years, S/O Ram Narayan Singh

2. Ram Narayan Singh, Aged about 61 Years

Both petitioner nos.1 & 2 resident of Hankerkhap, Jabra, P.O. Jabra, P.S. Simaria, District Chatra, Jharkhand

3. Praful Ranjan Singh @ Sonu Singh, Aged about 33 Years, S/O Upendra Singh

4. Monu Singh, Aged about 27 Years, S/O Upendra Singh

Both petitioner nos. 3 & 4 resident of Gram Sohar Kalan, Panchayat Nagar, P.O. Elda, P.S. Simaria, District Chatra, Jharkhand

… Petitioners

***Versus***

The State of Jharkhand … Opposite Party

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For the Petitioners : Mr. Rishu Ranjan Advocate
For the State : Mr. Abhay Kr. Tiwari, Addl.P.P.
For the Informant : Mr. Shailesh Kr. Singh, Advocate
Mr. Abhijeet Kr. Singh, Advocate
Mr. Ashish 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 F.I.R. and subsequent proceeding in connection with Balumath P.S. Case No.206 of 2020 including the order dated 12.01.2024 passed in connection with the said case whereby and where under the learned Magistrate has taken

cognizance of the offences punishable under Sections 406, 420, 385, 386, 387/34 of the Indian Penal Code.

3. Learned counsel for the petitioners submits that the case is next fixed to 23.11.2026 for appearance and charge has not yet been framed in the case.

4. The allegation against the petitioners is that the petitioners approached the informant for transportation of coal for them as was done by them on behalf of Chhotu Singh earlier and promised to pay the amount of money towards transportation of the coal but did not pay the money in total amounting to Rs.1,11,89,616/- and also threatened to get the informant killed with the help of extremists and told the informant to forget about the money due and payable by the petitioners to the informant.

5. On the basis of the written-report submitted by the informant, police registered Balumath P.S. Case No.206 of 2020 and took up the investigation of the case and after investigation of the case, police submitted charge-sheet; basing upon which the learned Magistrate has taken cognizance.

6. Learned counsel for the petitioners relies upon the order of the Hon'ble Supreme Court of India in the case of **Shailesh Kumar Singh @ Shailesh R. Singh vs. State of Uttar Pradesh & Others** reported in **2025 INSC 869** paragraph-10 of which reads as under:-

> *"**10**. How many times the High Courts are to be reminded that to constitute an offence of cheating, there has to be something more than prima facie on record to indicate that the intention of the accused was to cheat the complainant right from the inception. The plain reading of the FIR does not disclose any element of criminality." (Emphasis*

*supplied)*

and submits that therein the Hon'ble Supreme Court of India has reiterated the settled principle of law that to constitute an offence of cheating, there has to be something more in the record to *prima facie* indicate that the intention of the accused was to cheat the complainant right from the inception.

7. Learned counsel for the petitioners next relies upon the judgment of this Court in the case of **Shubhankar Ashutosh Pal vs. The State of Jharkhand & Another** reported in **2026:JHHC:20829** passed in **Cr.M.P. No.418 of 2025** and submits that therein this Court relied upon the judgment of 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** paragraph-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'."*
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> *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)*

wherein the Hon'ble Supreme Court of India has observed that if the dispute between the parties 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.

8. Learned counsel for the petitioners further submits that this Court in that case further 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.** Xxxxx 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 it has been reiterated by the Hon'ble Supreme Court of India 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.

9. Learned counsel for the petitioners next relies upon the judgment of this Court in the case of **Bimal Kuamr Agarwal @ Vimal Kumar Agarwal @ Vimal Kumar Agawal vs. The State of Jharkhand** reported in **2026:JHHC:15233** passed in **Cr.M.P. No.1490 of 2026** wherein this

Court relied upon the judgment of the Hon'ble Supreme Court of India in the case of **Satishchandra Ratanlal Shah vs. State of Gujarat & Another** reported in **(2019) 9 SCC 148** paragraph-11 and 13 of which reads as under:-

> *"**11**. Having observed the background principles applicable herein, we need to consider the individual charges against the appellant. Turning to Section 405 read with Section 406 IPC, we observe that the dispute arises out of a loan transaction between the parties. It falls from the record that Respondent 2 knew the appellant and the attendant circumstances before lending the loan. Further it is an admitted fact that in order to recover the aforesaid amount, Respondent 2 had instituted a summary civil suit which is still pending adjudication. The law clearly recognises a difference between simple payment/investment of money and entrustment of money or property. A mere breach of a promise, agreement or contract does not, ipso facto, constitute the offence of the criminal breach of trust contained in Section 405 IPC without there being a clear case of entrustment.*
> ***13**. Now coming to the charge under Section 415 punishable under Section 420 IPC. In the context of contracts, the distinction between mere breach of contract and cheating would depend upon the fraudulent inducement and mens rea. (See Hridaya Ranjan Prasad Verma v. State of Bihar [Hridaya Ranjan Prasad Verma v. State of Bihar, (2000) 4 SCC 168: 2000 SCC (Cri) 786]) In the case before us, admittedly the appellant was trapped in economic crisis and therefore, he had approached Respondent 2 to ameliorate the situation of crisis. Further, in order to recover the aforesaid amount, Respondent 2 had instituted a summary civil suit seeking recovery of the loan amount which is still pending adjudication. The mere inability of the appellant to return the loan amount cannot give rise to a criminal prosecution for cheating unless fraudulent or dishonest intention is shown right at the beginning of the transaction, as it is this mens rea which is the crux of the offence. Even if all the facts in the complaint and material are taken on their face value, no such dishonest representation or inducement could be found or inferred." (Emphasis supplied)*

wherein the Hon'ble Supreme Court of India has held that the mere inability of the appellant to return the loan amount cannot give

rise to a criminal prosecution for cheating unless fraudulent or dishonest intention is shown right at the beginning of the transaction, as it is this *mens rea* which is the crux of the offence and a mere breach of a promise, agreement or contract does not, *ipso facto*, constitute the offence of the criminal breach of trust contained in Section 405 IPC without there being a clear case of entrustment.

10. Learned counsel for the petitioners submits that in the absence of any allegation against the petitioners of putting the informant or any person in fear of death, grievous hurt or that they did so to induce the victim/informant to deliver some property, valuable security or something signed or sealed which could be converted into valuable security, the offence of extortion is not made out and in the absence of the offence of extortion, the none of the offences punishable under Section 385, 386 or 387 of the Indian Penal Code is made out against the petitioners.

11. It is next submitted that the alleged occurrence of lifting of coal took place on 17.06.2019 and the F.I.R. was lodged on 19.10.2020, so, there is inordinate delay of more than a year in lodging the F.I.R. It is further submitted that even if the entire allegations made against the petitioners are considered to be true in their entirety, still none of the offences in respect of which cognizance has been taken by the learned Magistrate, is made out against the petitioners and this is an out and out case of civil dispute to which a cloak of criminal offence has been given only for the purpose of wreaking vengeance. Hence, it is submitted that the prayer, as prayed for in this Cr.M.P., be allowed.

12. Learned Addl. P. P. appearing for the State and the learned counsel for the informant on the other hand vehemently oppose the prayer of the petitioners made in the instant Cr.M.P. and submit that if the entire allegations made against the petitioners are considered to be true in their entirety, then all the offences in respect of which the cognizance has been taken by the learned Chief Judicial Magistrate, Latehar, is in fact, made out against the petitioners. Therefore, it is submitted that this Cr.M.P., being without any merit, be dismissed.

13. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, so far as the offence punishable under Section 406 of the Indian Penal Code is concerned, the essential ingredients to constitute the said offence are:-

(i) there must be entrustment and

(ii) there must be misappropriation orconversion to one's own use or use in violation of a legal direction or obtaining legal possession;

as has been held by the Hon'ble Supreme Court of India in the case of **Ram Narayan Popli vs. Central Bureau of Investigation** reported in **(2003) 3 SCC 641**.

14. Now, coming to the facts of the case, there is no allegation against the petitioners of dishonest misappropriation of any entrusted property. The dues of the informant in respect of the work done by him for transporting the coal for the petitioners can neither be termed as property 'entrusted' as the word 'entrusted' has been used in Section 405 of the Indian Penal Code, the punishment for which has been

provided in Section 406 of the Indian Penal Code nor is there any allegation of dishonest misappropriation of any property. In the absence of these essential ingredients, this Court is of the considered view that even if the entire allegations made against the petitioners are considered to be true in their entirety, still the offence punishable under Section 406 of the Indian Penal Code is not made out against the petitioners.

15. So far as the offence punishable under Section 420 of the Indian Penal Code is concerned, the essential ingredient to constitute the said offence is that the accused person played deception since the beginning of the transaction between the parties.

16. Now, coming to the facts of the case; there is absolutely no allegation against the petitioners of playing deception since the beginning of the transaction between the parties. In the absence of this essential ingredient, this Court is of the considered view that even if the entire allegations made against the petitioners are considered to be true in their entirety, still the offence punishable under Section 420 of the Indian Penal Code is not made out against the petitioners.

17. So far as the offences punishable under Sections 385, 386 and 387 of the Indian Penal Code are concerned, the essential ingredient to constitute each of such offence is 'extortion' and to constitute 'extortion', the accused must put the victim or any other person in fear of death, grievous hurt, to induce the victim to deliver some property, valuable security or something signed or sealed which could be converted into valuable security.

18. Now, coming to the facts of the case; there is no allegation against the petitioners of inducing any person to deliver any property to any person. In the absence this allegation which is essential to constitute the offence of extortion, the offence of extortion is not made out and in the absence of offence of extortion, none of the offences punishable under Sections 385, 386 and 387 of the Indian Penal Code is made out even with the aid of Section 34 of the Indian Penal Code.

19. In view of the discussions made above, as none of the offences in respect of which the learned Magistrate has taken cognizance, are made out against the petitioners, even if the entire allegations made against them are considered to be true in their entirety, therefore, this Court is of the considered view that the continuation of this criminal proceeding against the petitioners will amount to abuse of process of law. Hence, this is a fit case where the F.I.R. and subsequent proceeding in connection with Balumath P.S. Case No.206 of 2020 including the order dated 12.01.2024 passed in connection with the said case, be quashed and set aside.

20. Accordingly, the F.I.R. and subsequent proceeding in connection with Balumath P.S. Case No.206 of 2020 including the order dated 12.01.2024 passed in connection with the said case, are quashed and set aside *qua* the petitioners named above.

21. In the result, this Cr.M.P. stands allowed to the said extent only.

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

High Court of Jharkhand, Ranchi
Dated the 02nd of September, 2026
AFR/ Animesh
Uploaded on- 07/09/2026