IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.2683 of 2026

Sanjeev Kumar Gupta, aged about 42 years, S/o Ram Kailash Prasad, R/o At- Jublle Chowk, Tapakhas, Ward No.9, Latehar, PO & PS- Latehar, District- Latehar, State- Jharkhand

… Petitioner

Versus

The State of Jharkhand … Opposite Party

For the Petitioner : Mr. Sheo Kr. Singh, Advocate
For the State : Ms. Nehala Sharmin, Spl.P.P.
(Through V.C.)

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 B.N.S.S., 2023 with the prayer to quash the F.I.R. and the entire criminal proceeding in connection with Ratu P.S. Case No.303 of 2024 registered for the offences punishable under Sections 316(2), 318(3) and 318(4) of the B.N.S., 2023 and the said case is now pending in the court of learned J.M.F.C.-XXIV, Ranchi.

3. Learned counsel for the petitioner submits that the investigation of the case is still going on and charge-sheet has not yet been submitted against the petitioner.

4. The allegation against the petitioner is that the petitioner took Rs.27,01,000/- from the informant and his wife and got a *Raiyati* land

sold in their name but gave possession in respect of a different and separate *Gair Majaruwa* land.

5. On the basis of the written-report submitted by the informant, police registered Ratu P.S. Case No.303 of 2024 and took up the investigation of the case which is still going on at present.

6. Learned counsel for the petitioner submits 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 no offence is made out against the petitioner. It is further submitted that there is no document in respect of entrustment of any money to the petitioner. It is also submitted that admittedly, a sale-deed has been executed in favour of the informant by Suresh Ray so, the informant can take the possession of the land sold to him. It is further submitted that there is neither any allegation against the petitioner of entrustment of any property nor is there any allegation of committing any dishonest misappropriation of any entrusted property by the petitioner. It is further submitted that in the absence of any allegation against the petitioner that he played deception since the beginning of the transaction between the parties, the offence punishable under Section 318(4) of the B.N.S., 2023 is not made out against him.

7. Learned counsel for the petitioner relies 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)*

Hence, it is submitted that the prayer, as prayed for in this Cr.M.P., be allowed.

8. Learned Spl. P. P. appearing for the State on the other hand vehemently opposes the prayer of the petitioner made in the instant Cr.M.P. and submits that if the entire allegations made against the petitioner are considered to be true in their entirety, then all the offences in respect of which the F.I.R. has been registered, are made out against the petitioner. Hence, it is submitted that at this nascent stage, the entire criminal proceeding ought not be quashed. Therefore, it is submitted that this Cr.M.P., being without any merit, be dismissed.

9. 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 it is the admitted case of the informant that the petitioner got one sale-deed executed after taking money from the informant in respect of *Raiyati* land but gave possession of some other land which is a *Gair Majaruwa* land.

10. So far as the offence punishable under Section 316(2) of the B.N.S., 2023 is concerned, the essential ingredient to constitute the said offence are that there must be an entrustment and there must be misappropriation or conversion 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**.

11. Now, coming to the facts of the case, there is absolutely no allegation of any entrustment of any money because it is a settled principle of law, as has been held by the Hon'ble Supreme Court of India in the case of **Radheyshyam & Others vs. State of Rajasthan & Another** reported in **2024 SCC OnLine SC 2311** paragraph-12 of which reads as under:-

> *"**12**. In the present case, the appellants were not entrusted with any property by respondent no. 2 - complainant. The only delivery made was of part payment towards an Agreement to Sell between the parties. The amount paid towards consideration cannot be said to have been entrusted with the appellants by respondent no. 2. Additionally, merely because the appellants are refusing to register the sale, it does not amount to misappropriation of the advance payment. Since there was no entrustment of property, the offence of misappropriation of such property and thereby criminal breach of trust cannot be said to be made out." (Emphasis supplied)*

wherein the Hon'ble Supreme Court of India has held that the amount paid towards consideration cannot be said to have been entrusted with the seller. Thus, in the absence of this essential ingredient of entrustment and dishonest misappropriation of any entrusted property, 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 316(2) of the B.N.S., 2023 is not made out against the petitioner.

12. So, far as the offence punishable under Section 318(4) of the B.N.S., 2023 which corresponds to Section 420 of the Indian Penal Code is concerned; as has been held by the Hon'ble Supreme Court of India

in the case of **Uma Shankar Gopalika vs. State of Bihar & Another (supra)** that unless the accused played deception since the beginning of the transaction between the parties, the offence of cheating will not be made out.

13. Now, coming to the facts of the case; there is absolutely no allegation against the petitioner of playing deception since the beginning of the transaction between the parties rather it is the admitted case of the informant that the petitioner got a sale-deed executed in favour of the informant *albeit* not for the land, the possession of which was given to the informant. In the absence of any allegation against the petitioner of playing any deception since the beginning of the transaction between the parties, 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 318(2) or 318(4) of the B.N.S., 2023 is not made out against the petitioner.

14. In view of the discussions made above as none of the offences in respect of which the F.I.R. has been registered, is made out against the petitioner, therefore, this Court is of the considered view that the continuation of this criminal proceeding against the petitioner will amount to abuse of process of law, hence, this is a fit case where the F.I.R. and the entire criminal proceeding in connection with Ratu P.S. Case No.303 of 2024 which is now pending in the court of learned J.M.F.C.-XXIV, Ranchi, be quashed and set aside *qua* the petitioner named above.

15. Accordingly, the F.I.R. and the entire criminal proceeding in connection with Ratu P.S. Case No.303 of 2024 which is now pending in the court of learned J.M.F.C.-XXIV, Ranchi, is quashed and set aside *qua* the petitioner named above.

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

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 01st of September, 2026
AFR/ Animesh
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