(2026:JHHC:32575)

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.2943 of 2026

Mahendra Kumar Mishra @ Mahendra Mishra, aged about 66 years, S/o Late Baikunth Nath Mishra, R/o-Bangali Para Road, Jugsalai, P.O. + P.S.-Jugsalai, Jamshedpur, District-East Singhbhum, State-Jharkhand.

… Petitioner

Versus

1. The State of Jharkhand

2. Dipak Kumar Jha, S/o Late D. Jha, R/o Q No.72, Main Road, Sidhgora, P.O. + P.S.-Agrico, Jamshedpur, District-East Singhbhum, State-Jharkhand.

… Opposite Parties

For the Petitioner : Mr. Abhishek Kr. Dubey, Advocate
For the State : Mr. Abhay Kr. Tiwari, Addl.P.P.
For the O.P. No.2 : None

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- Heard the parties.

2. Though notice has validly been served upon the opposite party no.2, yet no one turns up on behalf of the opposite party no.2 in spite of repeated calls.

3. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 528 of the BNSS, 2023 with the prayer to quash and set aside the entire criminal proceeding as well as the order dated 07.06.2017 passed by learned Judicial Magistrate-1st Class, Jamshedpur in connection with C/1 Case No.1039 of 2015 whereby and

where under the learned Judicial Magistrate-1st Class, Jamshedpur has found *prima facie* case for the offences punishable under Sections 418/34 of the Indian Penal Code and to quash the order dated 06.08.2025 passed by the learned Judicial Magistrate-1st Class, Jamshedpur whereby and whereunder the discharge petition filed by the petitioner has been rejected as also to quash the order dated 08.07.2026 passed by the learned Additional Sessions Judge-V, Jamshedpur whereby and whereunder the Criminal Revision No.181 of 2025 has been dismissed.

4. The brief fact of the case is that the complainant/opposite party no.2 was working as a Crane Operator in the company namely M/s Processing Promoters represented through the petitioner who was the contractor engaged by the said M/s Tata Steel Processing & Distribution Ltd.. On 07.11.2011 at about 12:45 p.m., due to negligence of the factory management, the L-Hook/C-Hook of the crane got damaged and fell on the foot of the complainant/opposite party no.2 causing injury of such a nature that ultimately the left leg of the complainant/opposite party no.2 was to be amputated and though the petitioner got the complainant/opposite party no.2 admitted in TMH, Hospital and subsequently he was referred to the hospital at Kolkata for better treatment to save his life. The complainant was treated at Kolkata also, or about three months but thereafter the petitioner stopped giving financial assistance to the complainant/opposite party no.2 and because of lack of proper treatment, the leg of the complainant/opposite party no.2 was amputated and though the company assured the family members of the

complainant/opposite party no.2 of a company service but the management did not take care of the demand of the complainant/opposite party no.2 and also attempted to grab the sum of Rs.10 lakhs which was given to the complainant for his better future and treatment.

5. On the basis of the C/1 Case No.1039 of 2015 being referred to police under Section 156(3) of Cr.P.C., police registered Sidhgora P.S. Case No.107 of 2014 and took up investigation of the case and after investigation of the case, police found that the allegations was an error of fact and submitted final report. Being aggrieved by the same, the complainant/opposite party no.2 filed protest-cum-complaint case which was registered as C/1 Case No.1039 of 2015 and in the said case, the statement on solemn affirmation of the complainant was recorded and basing upon the materials in the record, the learned trial Court found *prima facie* case for the offences punishable under Section 418/34 of the Indian Penal Code and passed the summoning order inter alia against the petitioner.

6. Learned counsel for the petitioner relies upon the judgement of the Hon'ble Supreme Court of India in the case of **Medchl Chemicals and Pharma (P) Ltd. vs. Biological E. Ltd. and Others** reported in **(2000) 3 SCC 269** and submits that in para-11 thereof, the Hon'ble Supreme Court of India dealt with the ingredients of the offence punishable under Section 418 of the Indian Penal Code and has held that in order to constitute the offence *inter alia* under Section 418 of the Indian Penal Code, the guilty

intent, at the time of making the promise is a requirement and an essential and in the absence of the same the allegations would not attract *inter alia* the provisions of Section 418 of the Indian Penal Code and submits that there it has also been mentioned that illustration to Section 415 makes the position clear enough to indicate that mere failure to deliver in breach of an agreement would not amount to cheating, but is liable only to a civil action for breach of contract.

7. Learned counsel for the petitioner next submits that the allegation against the petitioner is false even if the entire allegation 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 even with the aid of Section 34 of the Indian Penal Code.

8. Learned counsel for the petitioner further submits that the learned Additional Sessions Judge-V, Jamshedpur also committed a grave illegality by not appreciating the same and dismissing the criminal revision by erroneously holding that the accused no.4 being in conspiracy with the accused no.1 to 3 sent a letter to the complainant/opposite party no.2 by saying that the wife of the complainant/opposite party no.2 is appointed to work in his office at Jugsalai, Jamshedpur amounts to cheating. It is then submitted that the learned Revisional Court has erroneously held that the proprietor of M/s Processing Promoters was under bounden duty and the accused was under the legal contract and interest of the same has to be protected by the accused and transaction

related to the financial head has not been provided to the complainant-informant, for after care of the incident; are sufficient to constitute the offence punishable under Section 418 of the Indian Penal Code. It is lastly submitted that the prayer as prayed for, by the petitioner in this Cr.M.P., be allowed.

9. Learned Addl.P.P. appearing for the State on the other hand vehemently oppose the prayer of the petitioner made in the instant Cr.M.P and submit that even if the entire allegations made against the petitioners are considered to be true in their entirety, still the offence punishable under Section 418 of the Indian Penal Code is made out against the petitioner. 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, it is pertinent to mention here that it is a settled principle of law that in order to establish the offence punishable under Section 418 of the Indian Penal Code, the essential ingredients of the offence are as under:-

(i) Accused cheated a person;

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

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

(iv) Accused had the knowledge that his act was likely to cause wrongful loss to the person cheated and whose interest he was bound to protect.

11. It is a settled principle of law as has been held by the Hon'ble Supreme Court of India in the case of **Harmanpreet Singh Ahluwalia &**

Ors vs. State of Punjab & Ors reported in **(2009) 7 SCC 712**, that an offence of cheating cannot be said to have been made out unless the following ingredients are satisfied:-

(i) Deception of a person either by making a false or misleading representation or by dishonest concealment or by any 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 was 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.

12. Now coming to the facts of the case, the only allegation is that the petitioner being the proprietor of M/s Processing Promoters was engaged by the principal employer M/s Tata Steel Processing & Distribution Ltd. and while the complainant/opposite party no.2 working under the petitioner/contractor, the L-Hook/C-Hook of the chain fell down accidentally and hit the left leg of the complainant/opposite party no.2. The only allegation against the petitioner is that though the petitioner promised to meet the entire expenditure of his treatment, but the petitioner and the co-accused persons only paid treatment expenses for a period of 03 months and thereafter, they did not pay the same.

13. As has been held by the Hon'ble Supreme Court of India in the case of **Suryalakshmi Cotton Mills Ltd vs Rajvir Industries Ltd. & Ors** reported in **(2008) 13 SCC 678** that bare perusal of the Section 415 read

with Section 420 of the Indian Penal Code clearly led to the conclusion that fraudulent or dishonest inducement on the part of the accused must be at the inception and not at the subsequent stage.

14. It is also 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 & 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 it was reiterated by the Hon'ble Supreme Court of India that 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 will not amount to cheating and in this case, there is absolutely no allegation against the petitioner of deceiving the complainant/opposite party no.2 in any manner. Even assuming for the sake of argument, that the petitioner stopped bearing the medical expenses of the complainant/opposite party no.2 after 03 months of his treatment, but the same by itself, in the considered opinion of the Court will not amount to deception that is to

say dishonest or fraudulent misrepresentation since the beginning of the transaction between the parties.

15. Under such circumstances, 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 same is insufficient to constitute the offence punishable under Section 418 of the Indian Penal Code even with the aid of Section 34 of the Indian Penal Code, hence, 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 and this is a fit case where the entire criminal proceeding as well as the order dated 07.06.2017 passed by learned Judicial Magistrate-1st Class, Jamshedpur in connection with C/1 Case No.1039 of 2015 whereby and where under the learned Judicial Magistrate-1st Class, Jamshedpur has found *prima facie* case for the offence punishable under Sections 418/34 of the Indian Penal Code and the order dated 06.08.2025 passed by the learned Judicial Magistrate-1st Class, Jamshedpur whereby and whereunder the discharge petition filed by the petitioner has been rejected; as also the order dated 08.07.2026 passed by the learned Additional Sessions Judge-V, Jamshedpur whereby and whereunder the Criminal Revision No.181 of 2025 has been dismissed, be quashed and set aside.

16. Accordingly, the entire criminal proceeding as well as the order dated 07.06.2017 passed by learned Judicial Magistrate-1st Class, Jamshedpur in connection with C/1 Case No.1039 of 2015 whereby and where under the learned Judicial Magistrate-1st Class, Jamshedpur has

found *prima facie* case for the offences punishable under Sections 418/34 of the Indian Penal Code and the order dated 06.08.2025 passed by the learned Judicial Magistrate-1st Class, Jamshedpur whereby and whereunder the discharge petition filed by the petitioner has been rejected as also the order dated 08.07.2026 passed by the learned Additional Sessions Judge-V, Jamshedpur whereby and whereunder the Criminal Revision No.181 of 2025 has been dismissed, is quashed and set aside *qua* the petitioner.

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

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 05th of November, 2026
AFR/ Abhiraj

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