IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 1574 of 2017

1. Hasiban Bibi, wife of late Rozan Seikh
2. Sajid Ansari, son of late Rozan Seikh
3. Rashid Ansari, son of late Rozan Seikh
4. Maqsud Ansari, son of Allauddin Ansari
5. Faruq Seikh, son of late Md. Rojan
6. Firoz Khan, son of Reyaz Khan
7. Jahiman Bibi, wife of late Sk. Idu
8. Mausam Khatun, wife of late Hakim Ansari
9. Mokim Ansari, son of late Sk. Idu
10. Mukhtar Ansari, son of late Sk. Idu
11. Mairun Khatun, wife of late Ahmed Hussain
12. Irsad Ansari, son of late Ahmed Hussain
13. Reyasat Ansari, son of late Ajmuddin Ansari
14. Subhan Ansari, son of late Ajmuddin Ansari
15. Sabila Khatun, wife of late Alam Ansari
16. Shamim Ansari, son of Reyasat Ansari
17. Nasim Ansari, son of Reyasat Ansari
18. Md. Shahid Ansari, son of Subhan Ansari
19. Akbar Ansari, son of late Alam Ansari

All resident of Village-Choreya, P.O. & P.S.- Chanho, Dist.-Ranchi

.... Petitioners

Versus

1. The State of Jharkhand
2. Mubarak Ansari, son of Md. Sikandar Ansari, resident Village-Choreya, P.O. & P.S.- Chanho, Dist.-Ranchi

…. Opp. Parties

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

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For the Petitioners : Mr. Jitendra Shankar Singh, Sr. Advocate
: Ms. Pragati Prasad, Advocate
For the State : Ms. Vandana Bharti, Addl. P.P.

For O.P. No.2 : Mr. Lal C.N. Shahdeo, Advocate
: Mr. Yash Raj Gupta, Advocate

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By the Court:-

1. Heard the parties.

2. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 482 of Cr.P.C. with the prayer to quash the entire criminal proceeding including the order dated 05.02.2016 passed by the learned Judicial Magistrate 1st Class, Ranchi in connection with Complaint Case No. 1436 of 2014, whereby and where under, learned Judicial Magistrate 1st Class, Ranchi has found *prima facie* case of the offence punishable under Sections 420, 465 and 120B of the Indian Penal Code and passed the summoning order.

3. It is submitted by the learned Senior Advocate appearing for the petitioners that the case is next fixed on 08.01.2027 for appearance of the accused persons and charge has not yet been framed in this case.

4. The allegation against the petitioners is that the petitioners being the co-parceners of the place of occurrence land, restrained the complainant from digging the place of occurrence land for constructing of plinth for a house. It is further submitted that in paragraph no.4 of the statement on solemn affirmation of the complainant; the complainant himself admitted that the petitioners has

share over the place of occurrence land but they do not have any right to sell the same alone.

5. Learned Senior Advocate appearing for the petitioners relied upon the judgment of this Court in the case of **Satyendra Nath Tiwari vs. The State of Jharkhand & Anr.** reported in **2026:JHHC:183** and submits that in that case, 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 & Anr.** reported in **(2005) 10 SCC 336**, paragraph no.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 in order to constitute the offence of cheating, the accused must play deception since the beginning of the transaction between the parties and if the intention to cheat has developed later on, the same cannot amount to cheating.

6. Learned counsel for the petitioners next relied upon the judgment of the Hon'ble Supreme Court of India in the case of **Usha Chakraborty & Anr. vs. State of West Bengal & Anr.** in **S.L.P. (Crl.) No. 5866 of 2022** dated 30.01.2023 wherein in the facts of that case, where the respondent has already approached the jurisdictional civil court by instituting a civil suit and it was pending, the Hon'ble Supreme Court of India held that there can be no doubt with respect to the fact that attempt on the part of the respondent is to use the criminal proceedings as weapon of harassment against the appellants. It is further submitted by the learned Senior Advocate appearing for the petitioners by drawing attention of this Court to the plaint of Title Suit No. 47 of 2015 of the court of Sub-Ordinate Judge-I, Ranchi, that the father of the complainant along with others filed the said title suit against the petitioners and the dispute between the parties is at best a civil dispute but a cloak of criminal case has been given to a purely civil dispute for the purpose of wreaking vengeance. It is then submitted by the learned Senior Advocate appearing for the petitioners that in the absence of any material to suggest that the petitioners have deceived the complainant or having induced him to part with any property, the offence punishable under Section 420 of the Indian Penal Code is not made out and

in the absence of any false document, the offence punishable under Section 465 of the Indian Penal Code is also not made out even with the aid of Section 120B of the Indian Penal Code. Hence, it is submitted that the prayer as prayed for by the petitioners in this criminal miscellaneous petition be allowed.

7. Learned Addl. P.P. and the learned counsel for the opposite party no.2 on the other hand vehemently opposes the prayer of the petitioners and submits that if the entire allegations made against the petitioners, statement on solemn affirmation of the complainant and the statement of the inquiry witnesses are considered to be true in its entirety, then all the offences in respect of which *prima facie* case has been found by the learned Judicial Magistrate 1st Class, Ranchi is in fact made out against the petitioners. Hence, it is submitted that this criminal miscellaneous petition being without any merit be dismissed.

8. 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 the essential ingredients to constitute the offence punishable under Section 420 of the Indian Penal Code are as under:-

(i) deceit, that is to say dishonest or fraudulent misrepresentation, and

(ii) *Inducing the person so deceived to part with property;*

as has been reiterated 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**.

9. Now coming to the facts of the case, there is absolutely no allegation against the petitioners of inducing any person to part with any property and in the absence of the same, this Court is of the considered view that even if the entire allegation made against the petitioners are considered to be true in its entirety, still, the offence punishable under Section 420 of the Indian Penal Code is not made out against any of the petitioners even with the aid of Section 120B of the Indian Penal Code.

10. So far as the offence punishable under Section 465 of the Indian Penal Code is concerned, the essential ingredients to constitute the said are as under: -

(i) *The accused prepared a false document or electronic record;*
(ii) *He did it with false meaning of written instrument for the purpose of fraud or deceit*
(iii) *The document or electronic record was prepared dishonestly or fraudulently;*
(iv) *He did it with the intention of causing wrongful gain to someone and wrongful loss to another*

11. Now coming to the facts of the case, there is absolutely no allegation against the petitioners of preparing any false document or electronic record. Claiming of the entire land by a co-parcener and selling

the same to a third person precludes all other persons except the person to whom property has been sold to institute any criminal case as has been held by the Hon'ble Supreme Court of India in the case of **Md. Ibrahim & Ors. Versus State of Bihar & Anr.** reported in (**2009) 8 SCC 751**.

12. Further, there is absolutely no allegation against the petitioners of making any specific false document and in the absence of any such allegation, certainly, the allegations made in the complaint are insufficient to constitute the offence punishable under Section 465 of the Indian Penal Code even with the aid of Section 120 B of the Indian Penal Code against the petitioners.

13. In view of the discussions made above, this Court is of the considered view that continuation of the criminal proceeding against the petitioners will amount to abuse of process of law and therefore, this is a fit case where the entire criminal proceeding including the order dated 05.02.2016 passed by the learned Judicial Magistrate 1st Class, Ranchi in connection with Complaint Case No. 1436 of 2014 be quashed and set aside *qua* the petitioners.

14. Accordingly, the entire criminal proceeding including the order dated 05.02.2016 passed by the learned Judicial Magistrate 1st Class, Ranchi in connection

with Complaint Case No. 1436 of 2014 is quashed and set aside *qua* the petitioners.

15. In the result, this criminal miscellaneous petition is allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 2nd November, 2026
AFR/Gunjan/-

Uploaded on 03/11/2026