IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.3717 of 2025
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1. L & T Finance Limited a company incorporated under the companies act having its office at N. M. Marg, Ballard Estate Mumbai, PO Ballard Estate and PS Fort, Dist South Mumbai, State Maharashtra
2. Managing Director, L & T Finance Limited at N. M. Marg, Ballard Estate Mumbai, PO Ballard Estate and PS Fort, Dist South Mumbai, State Maharashtra

   Both through authorized representative the authorized representative Mayank Raj aged about 35 years, S/o Prakash Kumar Rai, working as Legal Manager with L & T Finance Ltd. having its R/O Ratu Road, Opposite Nirwachan Bhawan, PO GPO, PS Sukhdev Nagar, Dist. Ranchi.

… Petitioners

Versus

1. The State of Jharkhand
2. Mukesh Kumar Singh, Director of Nav Durga Abasan Company Pvt. Ltd., aged about 35 years, S/O Sri Jai Ram Singh, R/O Sumati Niwas, Shanti Colony, P.O. & P.S.- Saraidhela, Dist.- Dhanbad.

… Opposite Parties

For the Petitioner : Mr. Bharat Kumar, Advocate
Mr. Sparsh Kumar Rai, Advocate
Mr. Rahul Sinha, Advocate
For the State : Mr. Vineet Kr. Vashistha, Spl.P.P.
For the O.P. No.2 : Mr. Santosh Kr. Tiwary, Advocate

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- **I.A. No.1750 of 2026**

1. Heard the parties.

2. Learned counsel for the petitioners submits that this interlocutory application has been filed with the prayer for early hearing of this Criminal Miscellaneous Petition.

3. Since the hearing of this Criminal Miscellaneous Petition is being taken up today, hence, this interlocutory application is disposed of being infructuous.

(Anil Kumar Choudhary, J.)

Cr.M.P. No.3717 of 2025

1. 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 entire criminal proceedings including the order taking cognizance and order issuing processes dated 10.04.2017 against the petitioner No.2 passed by the learned Judicial Magistrate-1st Class, Dhanbad in connection with C.P. Case No. 2471 of 2016, for having committed the offences punishable under Sections 406, 420 of the Indian Penal Code.

3. The brief fact of the case is that the co-accused Avas Praharaj and the complainant agreed that Avas Praharaj will arrange Dozer for the complainant at the rate of Rs.20,00,000/-. There was an exchange of e-mails to this effect. The complainant transferred Rs.8,00,000/- to the account of L & T Company but the co-accused person did not hand over the Dozer and the Dozer was not given to the complainant. On the

basis of the complaint, the statement of the complainant under solemn affirmation and the statement of the inquiry witnesses, the learned Judicial Magistrate-1st Class, Dhanbad found *prima facie* case for the offences punishable under Sections 406, 420 of the Indian Penal Code against the petitioner No.2.

4. Learned counsel for the petitioners relies upon the judgment of this Court in the case of **ATC Telecom Infrastructure Private Limited vs. The State of Jharkhand** reported in **2025 Supreme (Jhk) 988** and submits that this Court in that case, relied upon the judgment of a Co-ordinate Bench of this Court in the case of **Suma Devi vs. The State of Jharkhand & Others** passed in Cr.M.P. No. 741 of 2016, para-27 of which reads as under:-

> *"27. In the case in hand, Bharat Coking Coal Limited – a Company incorporated under the Companies Act, is not an accused and no allegation has been attributed against the Company. The accused are :- (1) Chief Manager, B.C.C.L., Kusunda Area; (2) Project Officer, B.C.C.L., Godhar Colliery; (3) Deputy Personnel Manager, B.C.C.L.,Godhar Colliery; (4) Chief Office Clerk, B.C.C.L., Godhar Colliery; against whom summons have been ordered to be issued. Since these are the post/designation of the employees of the Company, they are neither a natural or juridical person. Further, the I.P.C. does not attribute any personality to these posts. That being the position, they cannot be summoned to face trial independently. It is pertinent to mention here that the juridical person, i.e., the Company B.C.C.L. is not an accused in the complaint case." (Emphasis supplied)*

and submits that this Court has reiterated the settled principle of law that summons in a criminal case cannot be issued to a post without mentioning the name of the person who is holding the post; as a post is not a juridical person.

5. Learned counsel for the petitioners next relies upon the judgment of the Hon'ble Supreme Court of India in the case of **Sanjay Dutta & Others vs. State of Haryana & Another** reported in **2025 SCC OnLine SC 32** and submits that in para-13 thereof, it has been reiterated by the Hon'ble Supreme Court of India that it is a cardinal principal of criminal jurisprudence that there is no vicarious liability unless the statute specifically provides so. Thus, an individual who has perpetrated the commission of an offence on behalf of a company can be made an accused, only if the statute provides for such liability. It is then submitted that the Indian Penal Code do not contain any provision for vicarious liability, hence, the cognizance taken against the petitioner No.2 is bad in law.

6. Learned counsel for the petitioners further relies upon the judgment of this Court in the case of **M/s Budh Vihar Construction Pvt. Ltd. & Another vs. The State of Jharkhand** reported in **2025:JHHC:34204** and submits that therein, this Court reiterated the settled principle of law in para-13 that so far as the offence punishable under Section 406 of the Indian Penal Code is concerned, it is a settled principle of law that in order to constitute the said offence, the essential ingredient is that there has to be dishonest misappropriation of the entrusted property by the accused persons.

7. Learned counsel for the petitioners next submits that in the absence of any dishonest misappropriation of the entrusted property by either of the petitioners of this case, the cognizance taken and summons issued against the petitioner No.2 is bad in law. It is then

submitted that the undisputed fact remains that after institution of the case, the petitioner No.1 has already paid Rs.8,00,000/- to the complainant through the learned counsel and the learned counsel for the complainant acknowledges the same. Hence, it is submitted that the prayer as prayed for in this Criminal Miscellaneous Petition be allowed.

8. 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 this Criminal Miscellaneous Petition and submits that true it is that the petitioners have paid back the money utilized by the petitioners to the complainant but no interest or the litigation expenses has been paid. It is next submitted that if the entire allegations made against the petitioners are considered to be true in their entirety, the same is sufficient to constitute each of the offences in respect of which charge has been framed. Hence, it is submitted that this Criminal Miscellaneous Petition, 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 a settled principle of law that cognizance of offences cannot be taken in respect of a post because a post is not a juridical person.

10. Perusal of the record reveals that the learned Judicial Magistrate-1st Class, Dhanbad has ordered for issuance of summons *inter alia* against the Managing Director of L & T Finance Limited which is a

post only. Hence, on this score only, the cognizance taken is bad in law so far as the petitioner no.2 is concerned; otherwise also, the main allegation is against the co-accused namely Avas Praharaj. There is absolutely no allegation against the petitioners, particularly the petitioner No.2 who is the named accused person of the case. In the absence of that, this Court has no hesitation in holding that since no offence as alleged is made out against the petitioners - particularly the petitioner No.2, the continuation of the criminal proceedings against the petitioners - particularly the petitioner No.2 will amount to abuse of process of law. Therefore, this is a fit case where the entire criminal proceedings including the order taking cognizance and order issuing processes dated 10.04.2017 against the petitioner No.2 passed by the learned Judicial Magistrate-1st Class, Dhanbad in connection with C.P. Case No. 2471 of 2016 is liable to be quashed and set aside *qua* the petitioner No.2 only.

11. Accordingly, the entire criminal proceedings including the order taking cognizance and order issuing processes dated 10.04.2017 against the petitioner No.2 passed by the learned Judicial Magistrate-1st Class, Dhanbad in connection with C.P. Case No. 2471 of 2016, is quashed and set aside *qua* the petitioner No.2 only.

12. In the result, this Criminal Miscellaneous Petition is allowed to the aforesaid extent only.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 30th of April, 2026
AFR/ Saroj

Uploaded on 02/05/2026