

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 139 of 2026

Awadhesh Kumar, aged about 45 years, s/o Harish Chandra,
r/o & P.O.-Karadhana, P.S.-Mirzamurad, Dist.-Varanasi, Uttar
Pradesh

.... Petitioner

Versus

The State of Jharkhand

.... Opp. Party

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

For the Petitioner	 : Mr. Anurag Kashyap, Advocate
	: Mr. Bhagwat Prakash, Advocate
For the State	: Mr. V.K. Vashistha, Spl. P.P.

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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 528 of B.N.S.S., 2023 with the prayer to quash the entire criminal proceeding including the FIR being Kotwali P.S. Case No. 179 of 2025 registered for the offences punishable under Section 316(2), 318(2), 3(5) of B.N.S., 2023, pending in the court of learned Chief Judicial Magistrate, Ranchi.
3. The allegation against the petitioner is that the petitioner with the intention to cheat the informant since the very beginning came to the informant along with co-accused and posed before the

informant that he is the authorized seller (Govt. Seller) of Arihant Drug House, Banaras. The petitioner in furtherance of common intention with the co-accused person deceived and thereby made the informant believe that PSI India Private Ltd. is the associate company of a world class NGO- Population Service Industrial and with dishonest and fraudulent intention led the informant believe that they are the authorized person to sell medicines to the State of Jharkhand and Bihar and requested the informant to help them in distribution of the medicines. On being so deceived by the fraudulent and dishonest inducement of the petitioner and the co-accused person, the informant parted with Rs. 85,00,000/- by paying the same to the petitioner for purchase of the medicines which could be supplied to the State of Jharkhand and Bihar. The petitioner and the co-accused person led the informant believe that in case the medicines could not be sold, the unsold stock will be taken back by the petitioner and the value of the same will be paid back to the informant. The petitioner on receipt of Rs.85,00,000/- supplied medicines worth Rs.84,99,547/- but later on the informant could know that PSI India Private Ltd. is not the authorized company either by the State of Jharkhand or State of Bihar for supplying of drugs and hence the said medicines supplied by the petitioner to the informant could not be sold. The informant thereafter on 20.04.2024 sent back the entire medicines to the petitioner on the petitioner assuring the informant that the petitioner will return the value of the medicine within 60 days but

even after expiry of 60 days, the value of the said medicines was not paid back to the informant. On being so cheated by the petitioner in furtherance of common intention with the co-accused person and having committed criminal breach of trust, the informant lodged Kotwali P.S. Case No. 179 of 2025 and according to the petitioner, investigation of the case is going on and charge sheet has not yet been submitted.

4. It is submitted by the learned counsel for the petitioner that the allegations against the petitioner are all false and the dispute between the parties is at best a commercial transaction. It is then submitted by the learned counsel for the petitioner that the petitioner has been authorized by the PSI India Private Ltd. as a vender and has been authorized to collect payment on behalf of PSI India Private Ltd. and it is the PSI India Private Ltd. which is the main culprit and it has even cheated the petitioner also.
5. Learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court of India in the case of **Dalip Kaur and Ors. Vs. Jagnar Singh & Anr.** reported in (2009) 14 SCC 696, paragraph no. 10 of which reads as under:-

"10. The High Court, therefore, should have posed a question as to whether any act of inducement on the part of the appellant has been raised by the second respondent and whether the appellant had an intention to cheat him from the very inception. If the dispute between the parties was essentially a civil dispute resulting from a breach of contract on the part of the appellants by non-refunding the amount of advance the same would not constitute an offence of cheating. Similar is the legal position in respect of an offence of criminal breach of trust having regard to its definition contained in Section 405 of the Penal Code. (See Ajay Mitra v. State of M.P. [(2003) 3 SCC 11 : 2003 SCC (Cri) 703])"

and submits that therein, the Hon'ble Supreme Court of India has reiterated the settled principle of law that if the dispute between the parties was essentially a civil dispute resulting from a breach of contract on the part of the accused persons, by non-refunding the amount of advance, the same would not constitute the offence of cheating.

6. Leaned counsel for the petitioner next relied upon the judgment of the Hon'ble Supreme Court of India in the case of **Vesa Holdings Private Limited & Anr. vs. State of Kelera & Ors.** reported in **(2015) 8 SCC 293** wherein, the Hon'ble Supreme Court of India has held that in a case where allegations are made in regard to failure on the part of the accused to keep his promise, in the absence of culpable intention at the time of making initial promise being absent, no offence under Section 420 of the Indian Penal Code can be said to have been made out. Hence, it is submitted that the prayer as made in this criminal miscellaneous petition be allowed.

7. The learned Spl. P.P. on the other hand vehemently opposes the prayer and submits that this is a clear-cut case of cheating the informant of huge amount of Rs. 85,00,000/- in a shrewd and organized manner and such cases involving economic offences stand in a different footing then that of criminal breach of trust relating to sell of land or other similar cases of breach of contract. It is next submitted by learned Spl. P.P. that there is direct and specific allegation against the petitioner that the petitioner since

beginning of the transaction between the parties played deception in furtherance of common intention with the co-accused person leading the informant believe that PSI India Pvt. Ltd. is the authorized seller for government medicine in the State of Jharkhand and Bihar though in fact, the same was not true and by thus dishonestly and fraudulent deceiving the informant induced to him to part with huge amount of money and though it supplied medicine but again the petitioner deceived the informant by making him believe that if the informant returns the medicine then the informant will be pa back the value of the medicine within 60 days. It is next submitted by learned Spl. P.P. that the undisputed fact remains that the petitioner has received back the medicines worth Rs. 84,99,547/- from the informant and it has also remained undisputed that even after receiving back the medicines the petitioner has not returned the value of such medicine to the informant and this is sufficient to constitute the offence in respect of which FIR has been registered.

8. Learned Spl. P.P. next relied upon the judgment of the Hon'ble Supreme Court of India in the case of **Rajesh Bajaj v. State NCT of Delhi and Others** reported in (1999) 3 SCC 259, paragraph no.9 of which reads as under:-

"9. It is not necessary that a complainant should verbatim reproduce in the body of his complaint all the ingredients of the offence he is alleging. Nor is it necessary that the complainant should state in so many words that the intention of the accused was dishonest or fraudulent. Splitting up of the definition into different components of the offence to make a meticulous scrutiny, whether all the ingredients have been precisely spelled out in the complaint,

is not the need at this stage. If factual foundation for the offence has been laid in the complaint the court should not hasten to quash criminal proceedings during investigation stage merely on the premise that one or two ingredients have not been stated with details. For quashing an FIR (a step which is permitted only in extremely rare cases) the information in the complaint must be so bereft of even the basic facts which are absolutely necessary for making out the offence. In State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] this Court laid down the premise on which the FIR can be quashed in rare cases. The following observations made in the aforesaid decisions are a sound reminder: (SCC p. 379, para 103)

"103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice."

and submits that therein the Hon'ble Supreme Court of India has observed that splitting up of the definition into different components of the offence to make a meticulous scrutiny, whether all the ingredients have been precisely spelled out in the complaint, is not the need at the stage of consideration of the application under Section 482 of Cr.P.C. which corresponds to Section 528 of B.N.S.S., 2023. Hence, it is submitted that this criminal miscellaneous petition being without any merit be dismissed.

9. Having heard the submissions made at the Bar and after going through the materials available in the record, it is pertinent to mention here that perusal of the record reveals that there is direct and specific allegation against the petitioner that the petitioner in furtherance of common intention with the co-accused person

cheated the informant by deceiving the informant with fraudulent and dishonest intention by making him believe that PSI India Pvt. Ltd. is an authorized government seller of the medicines in the State of Jharkhand and Bihar; which the petitioner at the time of deceiving and inducing the informant was aware, to be not true. The undisputed fact remains that by such deceiving the petitioner succeeded in making the informant part with Rs.85,00,000/- by paying the same to the petitioner and the undisputed fact remains that though the petitioner supplied some medicines to the informant but on being assured by the petitioner though the informant has sent back the entire medicine of Rs.84,99,547/- but the petitioner has not paid back the value of the said medicines which was sent back by the informant to the petitioner; without any plausible reason.

10. It is a settled principle of law that economic offences by their very nature lie beyond the domain of mere dispute between private parties and the High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour as has been held by the Hon'ble Supreme Court of India in the case of **Dinesh Sharma v. Emgee Cables and Communications Ltd. and Another** reported in **2025 SCC Online SC 929** paragraphs-23 of which reads as under:

23. A profitable reference can be made to the case of Parbatbhai Ahir v. State of Gujrat (2017) 9 SCC 641 wherein it was observed that economic offences by their very nature lie beyond

the domain of mere dispute between private parties and the High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance. Thus, it can be concluded that economic offences by their very nature stand on a different footing than other offences and have wider ramifications. They constitute a class apart. Economic offences affect the economy of the country as a whole and pose a serious threat to the financial health of the country. If such offences are viewed lightly, the confidence and trust of the public will be shaken. (Emphasis supplied)

11. It is needless to mention that if the entire allegations made against the petitioner are considered to be true in their entirety, then *prima facie* the offence in respect of which the FIR has been registered is made out against the petitioner. The investigation of the case is going on and at this nascent stage, this Court is of the considered view that this is not a fit case where the entire criminal proceeding be nipped in the bud by quashing the same.
12. Accordingly, this criminal miscellaneous petition being without any merit is dismissed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 29th January, 2026
AFR/Sonu-Gunjan/-

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