

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.43305 of 2016**

Arising Out of PS. Case No.-170 Year-2014 Thana- SAMASTIPUR COMPLAINT CASE  
District- Samastipur

Dr. Renu Rana, Wife of Dr. Rana Vishwa Vijay Singh, Resident of Mohalla-  
Ajad Nagar, Mohanpur, P.S.-Samastipur District-Samastipur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Priyanka Jaiswal, Wife of Sameer Kumar, resident of Mohalla-Kashipur, P.S.  
Nagar, District-Samastipur

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Saket Tiwary, Advocate

For the Opposite Party/s : Mr. Pawan Kumar Chaurasiya, APP

**CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA  
C.A.V. JUDGMENT**

**Date : 24.07.2026**

1. Heard learned counsel for the petitioner as well as learned APP for the State. Despite service of notice upon opposite party no.2/ complainant and sufficient opportunity given to her, no one appeared on her behalf.

2. The present application has been filed under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.') for quashing the order dated 16.02.2016 passed by the learned Sessions Judge, Samastipur (hereinafter referred to as 'Revisional Court') in Criminal Revision No.1312 of 2014, wherein the learned Revisional Court upheld the order dated 09.06.2014 passed by the learned S.D.J.M., Samastipur (hereinafter referred to as 'Magistrate') in



connection with Complaint Case No.170 of 2014, wherein the learned Magistrate took cognizance for the offences punishable under Sections 406 and 420 of the Indian Penal Code, 1860 (in short 'IPC') against the petitioner herein.

3. The prosecution case, as emerging from the complaint petition, is that the complainant (opposite party no.2), who claims to be an Advocate by profession, visited the clinic of the petitioner on 05.03.2013 on account of certain complications during her pregnancy. It is alleged that after considering the ultrasound report produced by the complainant, the petitioner advised her to undergo a medical termination of pregnancy on payment of a sum of Rs.2,500/-. The complainant alleged that she deposited the said amount with the petitioner but, on the advice of her family members, did not undergo the proposed procedure. It is further alleged that the petitioner thereafter prescribed certain medicines, which the complainant consumed, resulting in deterioration of her health. According to the complainant, when she subsequently consulted another doctor, she was informed that the foetus was healthy, and she ultimately delivered a healthy female child on 26.10.2013. Alleging that the petitioner had deliberately furnished incorrect medical advice, retained the amount paid by her, the complainant



instituted Complaint Case No. 170 of 2014.

4. Upon perusal of the complaint petition, the solemn affirmation of the complainant and the statements of the inquiry witnesses recorded during the inquiry, the learned Magistrate, found a *prima facie* case to be made out and, *vide* order dated 09.06.2014, took cognizance of the offences punishable under Sections 406 and 420 of the IPC against the present petitioner. Aggrieved by the said order of cognizance, the petitioner preferred Criminal Revision No.1312 of 2014 before the learned Revisional Court. The learned Revisional Court, after considering the materials available on record, dismissed the revision petition *vide* the impugned order dated 16.02.2016 and affirmed the order of cognizance passed by the learned Magistrate. Being dissatisfied with the aforesaid orders, the petitioner has invoked the inherent jurisdiction of this Court under Section 482 of the Cr.P.C. by filing the present application seeking quashing of the revisional order dated 16.02.2016 and all consequential criminal proceedings arising therefrom. The Coordinate bench of this Court *vide* order dated 26.06.2018 stayed the further proceedings in Complaint Case No. 170 of 2014 pending in the Court of learned S.D.J.M., Samastipur.

5. Learned counsel for the petitioner submitted that



the impugned orders passed by the learned Magistrate as well as the learned Revisional Court are wholly unsustainable in the eyes of law, as the allegations made in the complaint petition, even if accepted in their entirety, do not constitute the ingredients of the offences punishable under Sections 406 and 420 of the IPC. It is submitted that there was no entrustment of any property so as to attract the offence of criminal breach of trust under Section 406 IPC. Learned counsel further submitted that there was neither any fraudulent or dishonest inducement nor any false representation made by the petitioner from the very inception of the transaction, and, therefore, the essential ingredients of the offence of cheating punishable under Section 420 IPC are conspicuously absent.

6. Learned counsel for the petitioner further submitted that the petitioner, being a qualified medical practitioner, merely rendered her professional opinion on the basis of the ultrasound report produced by the complainant (opposite party no.2) and prescribed medicines in the course of treatment. Learned counsel submitted the allegations disclose an error of medical judgment, which by itself does not constitute a criminal offence. He further submitted that there is no material on record to establish payment of Rs.2,500/- to the petitioner, no



independent medical opinion has been produced to demonstrate that the medical advice rendered by the petitioner was incorrect or negligent, and the complaint itself suffers from unexplained delay. It is also submitted that in the legal notice dated 04.01.2014 served upon the petitioner, there is no mention of any such amount or sum paid to the petitioner by the opposite party no.2 (complainant). It is, therefore, submitted that continuation of the criminal proceeding would amount to an abuse of the process of the Court, warranting interference by this Court in exercise of its inherent jurisdiction under Section 482 of the Cr.P.C.

7. Learned APP for the State, submitted that petitioner is a doctor against whom the complainant made allegation that she had given wrong medical advice, and when the complainant asked to return the fees taken, she refused to return the same. He further submitted that appropriate order may be passed in the facts and circumstances of this case to secure the ends of justice.

8. Having heard learned counsel for the petitioner and learned APP for the State, and upon perusal of the materials available on record, the principal question that falls for consideration before this Court is whether the continuation of



the criminal proceeding against the present petitioner would amount to an abuse of the process of the Court warranting exercise of the inherent jurisdiction of this Court under Section 482 of the Cr.P.C.

9. Before advertng to the rival submissions, it would be apposite to notice the scope of the inherent jurisdiction of this Court under Section 482 of the Cr.P.C. The power under Section 482 is of an extraordinary nature and is to be exercised sparingly, with circumspection and only in exceptional cases to prevent abuse of the process of the Court or otherwise to secure the ends of justice. At the stage of considering a petition for quashing, this Court is not expected to undertake a meticulous appreciation of the evidence or adjudicate upon disputed questions of fact. The Court is only required to examine whether the allegations contained in the complaint petition and the materials brought on record, if taken at their face value and accepted in their entirety, *prima facie* disclose the commission of the alleged offences. If the allegations disclose the essential ingredients of the offences and the issues raised involve disputed questions requiring appreciation of evidence, the criminal proceedings ought not to be interdicted in exercise of the inherent jurisdiction under Section 482 of the Cr.P.C.



Conversely, where the allegations, even if accepted in their entirety, fail to constitute any offence or the continuation of the prosecution would amount to an abuse of the process of the Court, the inherent jurisdiction can be invoked to secure the ends of justice.

10. Upon a careful perusal of the complaint petition, the solemn affirmation of the complainant and the statements recorded during the inquiry, this Court finds that the gravamen of the allegation against the petitioner is that she rendered an incorrect medical opinion regarding the condition of the complainant's (opposite party no.2) pregnancy and advised medical termination thereof. Significantly, the complaint itself discloses that the petitioner had not formed such opinion on her own but had first advised the opposite party no.2 to undergo an ultrasound examination and thereafter expressed her opinion on the basis of the ultrasound report produced before her. The allegations, even if accepted in their entirety, primarily relate to the correctness of the medical opinion rendered by the petitioner and do not, by themselves, disclose any material suggesting a deliberate or dishonest design from the inception.

11. The Hon'ble Supreme Court in *Delhi Race Club (1940) Ltd. & Ors. v. State of Uttar Pradesh & Anr.*



reported in **(2024) 10 SCC 690** has elaborately explained *sine qua non* requirement for the offence of cheating, which is as under:

*“36.....Similarly, in respect of an offence under Section 420 IPC, the essential ingredients are: - 1) deception of any person, either by making a false or misleading representation or by other action or by omission; 2) fraudulently or dishonestly inducing any person to deliver any property, or 3) the consent that any persons shall retain any property and finally intentionally inducing that person to do or omit to do anything which he would not do or omit (see: Harmanpreet Singh Ahluwalia v. State of Punjab, (2009) 7 SCC 712 : (2009) Cr.L.J. 3462 (SC))*

*37. Further, in both the aforesaid sections, mens rea i.e. intention to defraud or the dishonest intention must be present, and in the case of cheating it must be there from the very beginning or inception.*

**xxxx xxxx xxxx**

*39. Every act of breach of trust may not result in a penal offence of criminal breach of trust unless there is evidence of manipulating act of fraudulent misappropriation. An act of breach of trust involves a civil wrong in respect of which the person may seek his remedy for damages in civil courts but, any breach of trust with a mens rea, gives rise to a criminal prosecution as well. It has been held in Hari Prasad Chamaria v. Bishun Kumar Surekha & Ors., reported in (1973) 2 SCC 823 as under:*

*“4. We have heard Mr. Maheshwari on behalf of the appellant and are of the opinion that no case has been made out against the respondents under Section 420 Penal Code, 1860. For the purpose of the*



*present appeal, we would assume that the various allegations of fact which have been made in the complaint by the appellant are correct. Even after making that allowance, we find that the complaint does not disclose the commission of any offence on the part of the respondents under Section 420 Penal Code, 1860. There is nothing in the complaint to show that the respondents had dishonest or fraudulent intention at the time the appellant parted with Rs. 35,000/- There is also nothing to indicate that the respondents induced the appellant to pay them Rs. 35,000/- by deceiving him. It is further not the case of the appellant that a representation was made, the respondents knew the same to be false. The fact that the respondents subsequently did not abide by their commitment that they would show the appellant to be the proprietor of Drang Transport Corporation and would also render accounts to him in the month of December might create civil liability on the respondents for the offence of cheating.”*

**12. The Hon’ble Supreme Court in *Arshad Neyaz***

***Khan v. State of Jharkhand and Anr.*, reported in 2025 SCC**

***Online SC 2508*** has held as under:

*“17. In Inder Mohan Goswami vs. State of Uttaranchal, (2007) 12 SCC 1 (“Inder Mohan Goswami”), while dealing with Section 420 IPC, this Court observed thus:*

*“42. On a reading of the aforesaid section, it is manifest that in the definition there are two separate classes of acts which the person deceived may be induced to do. In the first class of acts he may be induced fraudulently or dishonestly to deliver property to any person. The second class of acts is the doing or omitting to do anything which the person deceived would not do or*



*omit to do if he were not so deceived. In the first class of cases, the inducement must be fraudulent or dishonest. In the second class of acts, the inducing must be intentional but need not be fraudulent or dishonest. Therefore, it is the intention which is the gist of the offence. To hold a person guilty of cheating it is necessary to show that he had a fraudulent or dishonest intention at the time of making the promise. From his mere failure to subsequently keep a promise, one cannot presume that he all along had a culpable intention to break the promise from the beginning.”*

**xxxx xxxx xxxx**

*19. It is settled law that for establishing the offence of cheating, the complainant/respondent No.2 was required to show that the appellant had a fraudulent or dishonest intention at the time of making a promise or representation of not fulfilling the agreement for sale of the said property. Such a culpable intention right at the beginning when the promise was made cannot be presumed but has to be made out with cogent facts.....”*

**13.** It further transpires from the materials available on record that the essential ingredients of the offences alleged are conspicuously absent. There is no material to indicate any entrustment of property so as to attract the offence under Section 406 of the IPC. Likewise, the complaint does not disclose that the petitioner made any false representation or practised deception with a dishonest intention at the very inception of the transaction so as to constitute the offence of cheating under Section 420 of the IPC. The allegation regarding



payment of Rs.2,500/- also remains unsupported by any contemporaneous material, and even the legal notice issued by the complainant prior to the institution of the complaint does not refer to such payment. Furthermore, no independent medical opinion or other material has been brought on record to *prima facie* indicate that the medical advice rendered by the petitioner was knowingly false or actuated by any dishonest motive.

14. The principles governing the exercise of inherent jurisdiction under Section 482 of the Cr.P.C. have been authoritatively laid down by the Hon'ble Supreme Court in ***State of Haryana and Ors. v. Bhajan Lal and Ors.***, reported in ***1992 Supp (1) SCC 335***. The Hon'ble Apex Court has held that where the allegations made in the complaint, even if taken at their face value and accepted in their entirety, do not *prima facie* constitute any offence or where the criminal proceeding is manifestly attended with *mala fides* and continuation thereof would amount to an abuse of the process of the Court, the High Court would be justified in exercising its inherent jurisdiction to quash such proceedings. In the facts of the present case, as discussed hereinabove, the allegations levelled against the petitioner, even if accepted in their entirety, fail to disclose the essential ingredients of the offences punishable under Sections



406 and 420 of the IPC. The dispute essentially arises from an alleged medical opinion rendered by the petitioner in the course of her professional duties, without any *prima facie* material to indicate dishonest intention or criminal breach of trust. Thus, the present case squarely falls within the categories illustratively enumerated in ***Bhajan Lal (supra)***, warranting interference by this Court to secure the ends of justice and prevent abuse of the process of law.

**15.** In view of the foregoing discussion, this Court is of the considered opinion that the impugned order dated 16.02.2016 passed by the learned Sessions Judge, Samastipur in Criminal Revision No.1312 of 2014, and the order dated 09.06.2014 passed by the learned S.D.J.M., Samastipur in Complaint Case No.170 of 2014, taking cognizance of the offences under Sections 406 and 420 of the IPC against the present petitioner cannot be sustained in the eyes of law and the same are hereby set aside, consequently, the entire criminal proceeding arising out of Complaint Case No.170 of 2014, against the present petitioner, stands quashed.

**16.** The present Criminal Miscellaneous Application is, accordingly, allowed.

**17.** Let a copy of this judgment be transmitted to



the Court concerned forthwith for needful and compliance.

(Sunil Dutta Mishra, J)

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