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**(2012) 07 JH CK 0047**  
**In the Jharkhand High Court**  
**Case No : Criminal Revision No. 488 of 2012**

Ashok Singh

APPELLANT

Vs

The State of Jharkhand and Another

RESPONDENT

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**Date of Decision :** 16-07-2012

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 211, 239, 240  
Penal Code, 1860 (IPC) — Section 120B, 239, 420, 468, 471

**Citation :** (2012) 4 JLJR 377

**Hon'ble Judges :** Harish Chandra Mishra, J

**Bench :** Single Bench

**Advocate :** Ajay Kumar Sah, for the Appellant;

**Final Decision :** Allowed

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## Judgement

H.C. Mishra, J.—Heard learned counsel for the petitioner and learned counsel for the State. Petitioner has challenged the order dated 16.6.2012 passed by learned Chief Judicial Magistrate, Ranchi in G.R. Case No. 2128 of 2011, whereby the prayer of the petitioner for discharge has been rejected.

2. It appears that petitioner has been made accused in Kotwali P.S. Case No. 377 of 2011, corresponding to G.R. No. 2128 of 2011 for the offence under Sections 420, 468, 471 of the I.P.C., which was instituted on the basis of written application given by one Sarvan Kumar Jatan, who had stated that the other co-accused persons (who have been described as Verma family in the F.I.R.), were residing on the land of the informant from the lifetime of the father of the informant. After the death of the informant's father, it transpired that they were having some title deed also with respect to the land on which they were residing. Subsequently, as it appears from the F.I.R., that the informant tried to get the vacant possession of the land and a title suit was also filed against the members of the Verma family by the informant and in the meantime, the informant also took steps to settle the matter, where the name of the petitioner came in the F.I.R. It is alleged that the petitioner informed the informant that a piece of

suitable land was available for settling the persons belonging to Verma family and accordingly, the informant purchased the said land and transferred the same in favour of the co-accused persons belonging to Verma family. It appears from the F.I.R. that still thereafter, the land was not vacated by the co-accused persons and in the meantime even the title suit filed by the informant was dismissed for default.

3. It is further alleged against the petitioner that subsequently, the informant learnt that the land which was purchased by the informant for the co-accused persons, had been sold by them to the petitioner and petitioner was residing on the said land. The petitioner refused to vacate the land and threatened the informant. With these allegations, the FIR was lodged in which the persons belonging the Verma family, as well as the petitioner were made accused.

4. It appears that after investigation, the police submitted charge-sheet in this case against the accused persons for the offence under Sections 420, 468, 471, 477, 120B IPC and accordingly, cognizance was taken against all the accused persons including the petitioner. Petitioner, subsequently, filed application u/s 239 of the Cr.P.C., stating that no offence was made out against the petitioner as the petitioner was having possession over the land, which was sold to him by the co-accused persons, to whom the land belonged and accordingly, no offence can be said to be made out against the petitioner. The Court below, after discussing the case of the informant as given in the F.I.R., and after quoting the provisions of Sections 239, 240 and 211 of the Cr.P.C., as also Sections 420, 468, 471, 477 and 120B of the IPC, has held that there was sufficient evidence to frame the charge against the petitioner and has rejected the discharge application filed by the petitioner.

5. Learned counsel for the petitioner has submitted that the impugned order passed by the Court below is absolutely a non-speaking order, inasmuch as, no reason whatsoever has been assigned and no material against the petitioner has been discussed for dismissing the application filed by the petitioner u/s 239 of the Cr.P.C. Learned counsel submitted that even if the facts of this case are admitted, the case is only of civil nature and no offence is made against the petitioner for the offence under Sections 420, 468, 471 and 477 IPC.

6. Learned counsel for the State on the other hand opposed the prayer.

7. Having heard learned counsel for both the sides and upon going through the impugned order, I find that the learned CJM has only detailed the allegation against the petitioner and quoted the aforesaid sections of the Cr.P.C. and the I.P.C. and has only stated that on the basis of the discussions made above, there are sufficient evidence to frame the charge against the petitioner for the offence under Sections 420, 468, 471, 477 and 120B of the I.P.C. and has rejected the application filed by the petitioner. No reason, whatsoever, has been assigned by the learned Chief Judicial Magistrate, nor any material from the case diary has been discussed to show that any such offence is made out against the petitioner.

In the facts and circumstance of the case, I am of the considered view that that the impugned order is absolutely a non-speaking order and same cannot be sustained in the eyes of law. In view of the aforementioned discussions, the impugned order dated 16.6.2012 passed by learned Chief Judicial Magistrate, Ranchi, in G.R. Case No. 2128 of 2011 arising out of Kotwali P.S. Case No. 377 of 2011 is hereby, set aside and the Court below is directed to pass afresh reasoned order in accordance with law, discussing the material against the petitioner and also discussing whether on the basis of the allegations against the petitioner and the material collected during investigation, the offences, for which the cognizance has been taken against the petitioner, are actually made out against the petitioner or not. With these directions, this application is allowed.