
(2025) 11 JH CK 1872

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition Nos.927, 1487, 1492 Of 2022

Sachida Nand Prasad

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 04-11-2025

Acts Referred:

Code of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 120B, 406, 420
Negotiable Instruments Act, 1881 — Section 141

Citation : (2025) 11 JH CK 1872

Hon'ble Judges : Anil Kumar Choudhary, J

Bench : Single Bench

Advocate : Anoop Kr. Mehta, Manoj Kumar, Satish Prasad, Shiv Shankar Kumar, R.S. Mazumdar, Jasvinder Mazumdar, Naveen Kumar

Final Decision : Dismissed

Judgement

Anil Kumar Choudhary, J

1. Heard the parties.

2. These Criminal Miscellaneous Petitions have been filed invoking the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure with the common prayer to quash the FIR being Mango (Ulidihi) P.S. case No.202 of 2019 registered for the offences punishable under Sections 406, 420 and 120B of the Indian Penal Code.

3. Learned counsel for the petitioners submits that the investigation of the case is still going on and charge sheet has not yet been submitted in this case.

4. The allegation against the petitioners is that the petitioners in criminal conspiracy with each other, deceived the informant by suppressing the material facts that the different floors of the Elite Hospital Limited, of which the petitioners of all these three Criminal Miscellaneous Petitions claimed themselves to be the Directors, have been mortgaged with different Banks and huge amount

of loan has been taken by the Elite Hospital Limited from Banks and induced the informant and his associate - Gyanchand Jaiswal to pay huge amount of money to the account of the Elite Hospital Limited and also to invest huge amount of money in renovation of the said hospital, by promising them to give the said hospital on lease for a period of 18 years and also induced the informant and Gyanchand Jaiswal to be the Director of the said hospital in the name and style of 'Elite Hospital Limited' but later on, the informant and Gyanchand Jaiswal came to know about the deception and inducement made by petitioners for making them deliver huge amounts of money and to do renovation work; which they would not have done, had they not been so deceived and ultimately did not return the money invested by the petitioners. There is also direct and specific allegation against the petitioners of all these three Criminal Miscellaneous Petitions of playing deception since the beginning of the transactions between the parties. On the basis of the written report submitted by the informant, police registered Mango (Ulidihi) P.S. case No.202 of 2019 and took up investigation of the case.

5. Learned counsel for the petitioners submits that the allegations against the petitioners of all three Criminal Miscellaneous Petitions are false. It is next submitted that the informant came to the hospital and introduced himself as a practicing doctor of Brahmanand Multispecialty Hospital having a team of doctors and patients and offered to revive the hospital. The informant approached Gyanchand Jaiswal for the purpose of investing in the company/hospital and also undertook to pay quarterly instalment to the bank. During the period of May, 2016 to October, 2016, the informant kept the entire money received from the patients and spent only a meagre amount towards purchase of medicines and equipment but the informant did not pay the quarterly instalment against bank's loan. It is further submitted that without any rhyme or reason vide his letter dated 29.12.2016, the informant tendered his resignation from the Office of Director, Elite Hospital Limited. It is also submitted that at best, it is a case of the settlement of accounts and a dispute of civil nature.

6. Relying upon the judgment of the Hon'ble Supreme Court of India in the case of Ravindranatha Bajpe vs. Mangalore Special Economic Zone Ltd. & Others reported in 2021 SCC OnLine 806, the learned counsel for the petitioners submits that the Hon'ble Supreme Court of India in para-24 of the said judgement relied upon its own judgment in the case of Sunil Bharti Mittal vs. Central Bureau of Investigation reported in (2015) 4 SCC 609, para-43 and 44 of which read as under:-

"43. Thus, an individual who has perpetrated the commission of an offence on behalf of a company can be made an accused, along with the company, if there is sufficient evidence of his active role coupled with criminal intent. Second situation in which he can be implicated is in those cases where the statutory regime itself attracts the doctrine of vicarious liability, by specifically incorporating such a provision.

44. When the company is the offender, vicarious liability of the Directors cannot be imputed automatically, in the absence of any statutory provision to this effect. One such example is Section 141 of the Negotiable Instruments Act, 1881. In *Aneeta Hada* [*Aneeta Hada v. Godfather Travels & Tours (P) Ltd.*, (2012) 5 SCC 661 : (2012) 3 SCC (Civ) 350 : (2012) 3 SCC (Cri) 241] , the Court noted that if a group of persons that guide the business of the company have the criminal intent, that would be imputed to the body corporate and it is in this backdrop, Section 141 of the Negotiable Instruments Act has to be understood. Such a position is, therefore, because of statutory intendment making it a deeming fiction. Here also, the principle of "alter ego", was applied only in one direction, namely, where a group of persons that guide the business had criminal intent, that is to be imputed to the body corporate and not the vice versa. Otherwise, there has to be a specific act attributed to the Director or any other person allegedly in control and management of the company, to the effect that such a person was responsible for the acts committed by or on behalf of the company."

and submits that here the company is the offender, hence, vicarious liability of the Directors cannot be imputed automatically. Hence, it is submitted that the prayer as prayed for in these three Criminal Miscellaneous Petitions be allowed.

7. Learned counsels appearing for the State of all these three Criminal Miscellaneous Petitions and the learned senior counsel for the opposite party No.2 appearing in all these three Criminal Miscellaneous Petitions on the other hand vehemently oppose the prayer of the petitioners made in these Criminal Miscellaneous Petitions and submit that in para-43 of the judgment in the case of *Sunil Bharti Mittal vs. Central Bureau of Investigation* (supra), it has categorically been held by the Hon'ble Supreme Court of India that an individual who has perpetrated the commission of offence on behalf of a company can be made an accused, along with the company, if there is sufficient evidence of his active role coupled with the criminal intent. It is next submitted that here the company has not committed any offence rather it is the petitioners who in their individual capacity have deceived and thereby dishonestly induced the informant and Gyanchand Jaiswal both to pay money to the Elite Hospital Limited and also induced the informant and Gyanchand Jaiswal so deceived by the petitioners themselves in their individual capacity, to invest the huge amount of money in the said hospital, which they ought not have done unless they were so deceived by the petitioners and had they been knowing the fact that the different floors of the Elite Hospital Limited, have been mortgaged to the different banks to obtain huge amount of loans by the Elite Hospital Limited, which material facts although were known to the petitioners, was suppressed by the petitioners. It is further submitted that the loans incurred by the said hospital by mortgaging the different floors of the said hospital, were no doubt the material facts but for the purpose of playing deception since the beginning, the said material fact was deliberately suppressed by the petitioners of these three criminal miscellaneous petitions, who claim to be the Directors of Elite Hospital Limited. It is also submitted that it is the contention of the petitioners that the informant went to

Elite Hospital Limited and voluntarily approached them, but the same is at best a defence of the petitioners, as it is the specific case of the informant, as has been categorically made in the FIR that, it is petitioners who themselves came to the informant and approached him with the offer of handing over the Elite Hospital Limited to be run and managed by the informant, upon suppressing the material facts, that the different floors of the said hospital have been mortgaged with the different banks for obtaining loans. Hence, it is submitted that these Criminal Miscellaneous Petitions, 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 mere mention here that the essential ingredients to constitute the offence punishable under Section 420 of the Indian Penal Code are as follows:-

- (a) Deceit, that is to say dishonest or fraudulent misrepresentation; and
- (b) Inducing the person deceived to part with property;

as has been held 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 direct and specific allegation against the petitioners that the petitioners of these three Criminal Miscellaneous Petitions, in criminal conspiracy with each other played deception since the beginning of the transaction between the informant and Gyanchand Jaiswal, on one hand and Elite Hospital Limited represented by the petitioners of these Criminal Miscellaneous Petitions in the capacity of Director on the other hand. The petitioners of these three criminal miscellaneous petitions have deceived and thereby induced the informant and Gyanchand Jaiswal to part with huge amount of money by paying the same to Elite Hospital Limited and also investing huge amount of money in the renovation of Elite Hospital Limited, by deceiving them by suppressing the material facts that different floors of the Elite Hospital Limited have been mortgaged to the different Banks by the said Elite Hospital Limited of which the petitioners were Directors and they were knowing all these facts of mortgage of different floors of the said hospital to the different banks.

10. Under such circumstances, this Court is of the considered view that even if the entire allegations made against the petitioners in the FIR are considered to be true, there is direct and specific allegations against the petitioners of deceiving the informant and inducing him to deliver money to Elite Hospital Limited and also to invest huge amount of money with Elite Hospital Limited which could not have been done, had the informant and Gyanchand Jaiswal were not so deceived. Therefore, this Court is of the considered view that the entire materials available in the records are sufficient to constitute the offence punishable under Section 420 of the Indian Penal Code. Hence, this is not a fit case where the prayer of all the petitioners of these three Criminal Miscellaneous Petitions, as is made in these criminal miscellaneous petitions, is to be acceded to in exercise of the power under Section 482 of the Code of Criminal Procedure.

11. Accordingly, all these three Criminal Miscellaneous Petitions, being without any merit, are dismissed.

12. In view of disposal of all these Criminal Miscellaneous Petitions, the interim relief, if any, granted earlier in respective Criminal Miscellaneous Petitions is vacated.

13. The Registry is directed to intimate the court concerned forthwith.