

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**Cr. Revision No. 437 of 2020**

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Bijay Mahto @ Vijay Mahto	....	....Petitioner
-Versus-		
The State of Jharkhand	....	....Opp. Party

**CORAM:-HON'BLE MR. JUSTICE RAJESH KUMAR**

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For the Petitioner	:	- Mrs. J. Mazumdar, Adv.
For the State	:	- Mr. Aunp Topno, APP.

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The matter was taken up through Video Conferencing. Learned counsels for the parties had no objection with it and submitted that the audio and video qualities were good.

05/07.09.2021

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Defect, as pointed out by the office, are hereby, ignored.

Heard learned counsel for the petitioner and learned counsel the State.

The present criminal revision has been filed against the order dated 22.02.2020 passed by the Chief Judicial Magistrate, Gumla in Misc. Criminal Application No. 335 of 2019 in connection with Gumla P. S. Case No. 183 of 2019 corresponding to G. R. No. 564 of 2019 whereby petition under Section 239 of the Cr.P.C. has been rejected.

It has been submitted by the learned counsel for the petitioner that there is no material available in the case diary to suggest that commission of the offence of cheating or misappropriation of fund has been done, rather there is no evidence regarding the transaction of money. On the above fact, it has been submitted that no case is made out.

On the other hand, learned counsel for the State has opposed the prayer and has submitted that the police, after proper investigation, found that material is available and the charge sheet has been submitted against the accused. The Court below also perused the police report and found sufficient material against the accused. It has been further submitted that since the cognizance has been taken and discharge petition has been rejected on the basis of police report and as such, no explicit reason is required to be assigned. Further in the present case, sufficient reason has been assigned rather available material has already been discussed and as such, there is no merit in the present revision and accordingly, the same may be dismissed.

Having heard learned counsel for the parties and on perusal of the records, I find that there was an agreement between the parties for sale of land. It has been alleged that Rs.7,00,000/- (seven lac) has been given to the accused for the said purpose. Further on inquiry, it has been found that the same land does not belong to the petitioner, rather the same belongs to someone else. Thus money has been induced from the victim showing a piece of land, which does not belong to the

accused.

In view of the above discussion, it is settled law that the Court is not supposed to evaluate the material available on record at the pre trial stage and further quality and quantity of the material cannot be judged by the Court below for acceptance of the petition under Section 239 of the Cr. P. C.

In view of the above discussion, this Court finds no merit in the present criminal revision and accordingly, the same is hereby, dismissed.

Since the case has been decided on merits, I.A. No. 3969 of 2020 stands disposed of.

However, it is observed that any opinion expressed herein will not prejudice to the case of either of the parties in the trial.

Kamlesh/

**(Rajesh Kumar, J.)**