

**IN THE HIGH COURT OF MADHYA PRADESH**  
**BENCH AT INDORE**

**(SB: Hon'ble Mr. Justice Alok Verma)**

**CRR No.1371/2014**

State of MP

Vs.

Dinesh Jain

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Smt. Mamta Shandilya, learned counsel for the applicant/State.  
None for the respondent though served.

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**JUDGMENT**

**(Delivered on this 15<sup>th</sup> day of July, 2015)**

This criminal revision filed by the State is directed against the order passed by learned Special Judge, Shajapur in Special Sessions Trial No.03/2008, State of MP Vs. Dinesh Jain dated 08.07.2014 whereby, learned Special Judge discharged the respondent from charge under section 420 of IPC.

Even after service of notice, none appeared on behalf of the respondent.

The brief facts giving rise to this revision are that the complainant and the respondent jointly executed an agreement to sale in respect of some land which belongs to one Devi

Singh. They agreed to purchase the land jointly from said Devi Singh. Subsequently, the land was transferred in pieces in the name of complainant and present respondent as directed by them or in the names of their wives. It is further alleged that, however, in respect of remaining land, respondent got the land transferred in his name on 28.09.2007 and thereby committed fraud on the complainant, who was partner of the respondent in the transaction. It is further alleged that when the registry of the disputed portion of land was being done, some dispute arose between them and, therefore, initially, charge-sheet was filed under section 294, 323 and 506 part 2 of IPC and section 3, 2 and 10 of SC/ST (Prevention of Atrocities) Act. Subsequently, supplementary charge-sheet was filed against the present applicant under section 420 of IPC.

Learned Special Judge observed in the impugned order that more than 3/4 portion of the land which was allegedly purchased by the complainant and the respondent in partnership was done according to the instructions of the complainant and the respondent and only in respect of the 1/4 portion of the land, the dispute arose and on this basis, learned Special Judge inferred that there was no intention to deceit

from the very inception which was the main ingredient of section 420 of IPC. Learned Special Judge also observed that the dispute is of civil nature and the complainant should take recourse to the civil court against the respondent. The court also observed that after filing the charge-sheet under section 294, 506 part 2 and 323 of IPC, supplementary charge-sheet under section 420 of IPC is not proper. On this premise, learned Special Judge proceeded to dismiss the revision.

After going through the impugned judgment and the case diary, in my considered opinion, learned Special Judge erred while discharging the respondent from charge under section 420 of IPC. Learned Special Judge failed to appreciate that when registry of disputed portion of land was being executed, some dispute arose and offence under section 323, 294 and 506 part 2 was alleged to have been committed at that moment. This also indicated that the complainant did not agree for this registry in favour of the respondent. It is true that there should be an intention to deceit from the very beginning, however, so far as the criminal proceedings under section 420 of IPC are concerned, such intention to deceit can began at any moment and also it appears that after some time when only 1/4 portion

of the land remains, some intention to deceit set in in the mind of respondent and accordingly, at this stage, it cannot be said that there was no intention to deceit.

Accordingly, the revision deserves to be allowed. The impugned order passed by learned Special Judge in Special Sessions Trial No.03/2008 dated 18.07.2014 is set aside. He is directed to reconsider the matter after hearing both the parties and pass a suitable order in the light of the observations made by this Court.

With these directions and observations the revision stands disposed of.

C.c as per rules.

**(Alok Verma)**  
**Judge**

*Kratika/-*