IN THE HIGH COURT AT CALCUTTA

Criminal Revisional Jurisdiction

Appellate Side

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 5075 of 2024
Adarsh Parasramka & Anr.
Vs.
The State of West Bengal & Anr.

For the Petitioners	: Mr. Narayan Debnath, Ms. Bishalaxmi Ghosh, Ms. Swarnali Saha, Mr. Md. Nesab Sarkar, Ms. Anisha Haque, Ms. Shreya Das.
For the State	: Mr. Amarta Ghosh, Mr. Abhinav Rakshit.
Judgment reserved on	: 15.07.2026
Judgment delivered on	: 12.08.2026

SHAMPA DUTT (PAUL), J. :

1. The revisional application has been preferred praying for quashing of the proceedings of GR (NS) Case No.218/24 arising out of the proceedings in Bowbazar P.S. Case No. 57/24 dated 12.04.24 under Sections 120B/420/406 of the Indian Penal Code, 1860, pending before the Court of Learned Additional Chief Metropolitan Magistrate-II, Calcutta.

2. The petitioners state that Bowbazar PS Case no. 57/24 dated 12.04.2024 was registered under Sections 420/406/120B of

Indian Penal Code, stating therein that pursuant to a **commercial agreement** dated 24.09.2021, the de facto complainant/Opposite Party no. 2 supplied, industrial oil for 8 months from 23.07.2021 to 20.02.2022. From 21.02.2022, the Accused Persons/petitioners herein stopped the payment for supplying the goods. Even after several persuasions through calls and other media, no payment was made. Hence, the complaint was registered through Court order in compliance to Section 156(3) of the Code of Criminal Procedure, 1973.

3. The petitioners state that the Opposite party no. 2, in pursuant to a commercial contract dated 24.09.2021, has supplied industrial oil which is of inferior quality as against the terms and conditions of the said agreement. In fact, the Petitioners also intimated the same through notice dated 04.01.2024 through their Learned Advocate, thereby intimating the concerned factum. Moreso, it has categorically been mentioned that due to such inferior quality of product, the Petitioners have incurred a huge loss of Rs. 48,79,000/-, as owing to such substandard quality of industrial oil damage and break down has been caused to high quality machineries.

4. It is thus stated that the alleged dispute is entirely civil in nature, arising out of commercial transactions. Moreover, the Opposite Party no. 2 has supplied inferior quality of goods with an evil motive to gain wrongfully and after receiving a legal notice dated 04.01.2024, this instant criminal case has been filed through Court order in pursuant to provision of Section 156(3) of Code of Criminal Procedure, 1973 **after more than 3 months** without any plausible explanation for such inordinate delay just in order to shield his own misdeed.

5. **The petitioners further state that it is now the settled proposition of Law as observed by the Hon'ble Apex Court that Sections 420/406 of the Indian Penal Code cannot co-exist simultaneously on the same sets of facts.**

6. The petitioners state that they had neither any intention to deceive the Opposite party no. 2 nor to misuse the terms of the commercial contract. In fact it is the Opposite Party no. 2 who has deceived the Petitioners by supplying inferior quality of goods in deviation to the terms as settled between the parties. **In fact, after receiving of the legal notice dated 04.01.2024, this case has been drawn up through provisions of Section 156(3) of the Code of Criminal Procedure, 1973 on 12.04.2024 (i.e. delay of more than 3 months without any plausible explanations).**

7. The petitioners rely upon the judgment of the Supreme Court in ***Delhi Race Club (1940) Ltd. & Ors. Versus State of Uttar Pradesh & Anr., in Criminal Appeal No. 3114 of***

2024, decided on 23 August, 2024, wherein the Hon'ble Supreme Court held:-

> ***"41.*** *Before we close this matter, we would like to say something as regards the casual approach of the courts below in cases like the one at hand. The Indian Penal Code (IPC) was the official Criminal Code in the Republic of India inherited from the British India after independence. The IPC came into force in the sub-continent during the British rule in 1862. The IPC remained in force for almost a period of 162 years until it was repealed and replaced by the Bharatiya Nyaya Sanhita* ***("BNS")*** *in December 2023 which came into effect on 1st July 2024. It is indeed very sad to note that even after these many years, the courts have not been able to understand the fine distinction between criminal breach of trust and cheating.*
>
> ***42.*** *When dealing with a private complaint, the law enjoins upon the magistrate a duty to meticulously examine the contents of the complaint so as to determine whether the offence of cheating or criminal breach of trust as the case may be is made out from the averments made in the complaint. The magistrate must carefully apply its mind to ascertain whether the allegations, as stated, genuinely constitute these specific offences. In contrast, when a case arises from a FIR, this responsibility is of the police – to thoroughly ascertain whether the allegations levelled by the informant indeed falls under the category of cheating or criminal breach of trust.* ***Unfortunately, it has become a common practice for the police officers to routinely and mechanically proceed to register an FIR for both the offences i.e. criminal breach of trust and cheating on a mere allegation of some dishonesty or fraud, without any proper application of mind.***
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> ***43. It is high time that the police officers across the country are imparted proper***

> ***training in law so as to understand the fine distinction between the offence of cheating viz-a-viz criminal breach of trust. Both offences are independent and distinct. The two offences cannot coexist simultaneously in the same set of facts. They are antithetical to each other. The two provisions of the IPC (now BNS, 2023) are not twins that they cannot survive without each other.”***

8. The State has placed the Case Diary along with memo of evidence, wherein it appears that the complainant has stated that:-

> *“He supplied industrial oil to the accused based on a contract dated September 24, 2021. While supplies were made regularly, the accused deliberately stopped making payments starting February 21, 2022. When the complainant reached out via calls, emails, and messages to collect the dues, the accused delayed payments by making excuses, such as being out of station or having health issues. Furthermore, the accused attempted to deflect by falsely accusing the complainant of supplying degraded quality oil. The accused has wrongfully withheld and misappropriated a total sum of Rs. 33,78,512/- (Thirty-three lakh seventy-eight thousand five hundred and twelve only). The complainant alleges that these actions were done with a mala fide (bad faith) intention to wrongfully gain, constituting cheating and criminal breach of trust under Sections 420 and 406 of the Indian Penal Code, 1860.”*

9. In ***Shailesh Kumar Singh alias Shailesh R. Singh vs State of Uttar Pradesh & Ors., in Criminal Appeal No. 2963/2025 (@ petition for Special Leave to Appeal (Crl.)***

No. 4880/2025), decided on 14 July, 2025, places paragraph 9:-

> *"9. What we have been able to understand is that there is an oral agreement between the parties. The Respondent No.4 might have parted with some money in accordance with the oral agreement and it may be that the appellant - herein owes a particular amount to be paid to the Respondent No.4. However, the question is whether prima facie any offence of cheating could be said to have been committed by the appellant."*

10. It is thus the contention of the petitioners herein that in view of the final observation of the Hon'ble Supreme Court in ***Delhi Race Club (1940) Ltd. & Ors (Supra)*** at Para 41, 42, 43 the offences alleged in the present case of cheating and criminal breach of trust **cannot co-exist simultaneously** and it is stated that on this ground alone, the FIR is to be quashed.

11. It is further brought to the notice of the Court that the Hon'ble Supreme Court has categorically noted that whenever a case arises from an F.I.R., this responsibility is on the police to thoroughly ascertain whether the allegation levelled against the informant falls under the category of cheating or criminal breach of trust. The Court also directed that the police officers across the country should be imparted proper training to understand the fine distinction between the offence of cheating viz a viz. criminal breach of trust.

12. **Sections 316 and 318 of Bharatiya Nyaya Sanhita, 2023 are the offences relating to criminal breach of trust and cheating, and define the offences as follows:-**

> ***"316. Criminal breach of trust. –*** *(1) Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits criminal breach of trust."*

> ***"318. Cheating. –*** *(1) Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to cheat."*

13. **The difference** being that Section 316 of Bharatiya Nyaya Sanhita is attracted when **initial arrangement/transaction,** etc. is **not conducted with any *mens rea* of criminality,** there being an **entrustment.** It is here that the subsequent

occurrence of incidents, which leads to the criminal offence. So here the initial/start is based on trust, of which there is alleged breach, with or without *mens rea.*

14. On the other hand, the offence of cheating under Section 318 of Bharatiya Nyaya Sanhita requires **criminal intent** right from the beginning, when the transaction takes place.

15. **In a case of cheating,** an accused enters a business arrangement/transaction, etc. with *mens rea* of committing offence. His intention right from the start has the ingredients to constitute the offence under Section 318 of Bharatiya Nyaya Sanhita.

16. In ***S.N. Vijayalakshmi & Ors – versus – State of Karnataka & Anr., 2025 INSC 917,*** the Supreme Court held that:-

> ***"37.*** *Purely from a legal lens, it is now settled that the same person cannot be simultaneously charged for offences punishable under Sections 406 and 420 of the IPC with regard to one particular transaction, as per the decision rendered in* ***Delhi Race Club (1940) Limited (supra).*** *In this regard, reference may also be made to a subsequent decision by us in* ***V D Raveesha v State of Karnataka, 2024 INSC 1060*** *(penned by Ahsanuddin Amanullah, J.), which noticed the exposition in* ***Delhi Race Club (1940) Limited (supra).*** *In* ***V D Raveesha (supra),*** *the distinction between Sections 406 and 420 of the IPC was duly taken note of, but charges under Sections 406 and 420 of the IPC against the same person were upheld, not being part of a single transaction and*

*committed against different persons. The relevant passage from **V D Raveesha (supra)** reads thus:*

*'**21.** Though, having regard to the aforeenumerated position of law, on an overall conspectus of the factual aspects juxtaposed with the evidence on record, as regards fulfilment of the ingredients of Sections 406 and 420 of the IPC, at first sight, it may appear that the petitioner cannot be convicted both under Sections 406 and 420 of the IPC, but, in the present case, on a proper consideration of the issue in its entirety, there is a fine distinction inasmuch as, there are two different persons against whom the petitioner has committed the respective offences under the Sections supra: 17 first, the Company and second, Mallikarjuna (PW4 and husband of purchaser Savithramma). Thus, in the facts and circumstances of the present case, evidently the petitioner is guilty of offence committed against the Company punishable under Section 406 of the IPC and also, of offence committed against Mallikarjuna (PW4 and husband of purchaser Savithramma) punishable under Section 420 of the IPC.'*

(emphasis supplied)."

17. Thus keeping in mind the arguments made, by the parties herein, and the judgments relied upon, moreso, the judgment in ***Delhi Race Club (1940) Ltd. & Ors (Supra)*** and ***para 37 of S.N. Vijayalakshmi (Supra),*** this court is of view that in order for the offences under Section 316 and 318 of Bharatiya Nyaya Sanhita to co-exist, the facts of the case is required to be **prima facie a mixture of both offences which involves several transactions**, committed by different persons in a single case being a "mixed bag of facts".

18. The Supreme Court in ***S.N. Vijayalakshmi & Ors – versus – State of Karnataka & Anr. (2025 INSC 917),*** also held:-

> *"42. Coming to the second question i.e., whether civil and criminal proceedings both can be maintained on the very same set of allegations qua the same person(s), the answer stricto sensu, is that there is no bar to simultaneous civil and criminal proceedings. If the element of criminality is there, a civil case can co-exist with a criminal case on the same facts. The fact that a civil remedy has already been availed of by a complainant, ipso facto, is not sufficient ground to quash an FIR, as pointed out, inter alia, in* ***P Swaroopa Rani v M Hari Narayana, (2008) 5 SCC 765*** *and* ***Syed Aksari Hadi Ali Augustine Imam v State (Delhi Admn.), (2009) 5 SCC 528.*** *The obvious caveat being that the allegations, even if having a civil flavour to them, must prima facie disclose an overwhelming element of criminality. In the absence of the element of criminality, if both civil and criminal cases are allowed to continue, it will definitely amount to abuse of the process of the Court, which the Courts have always tried to prevent by putting a stop to any such criminal proceeding, where civil proceedings have already been instituted with regard to the same issue, and the element of criminality is absent. If such element is absent, the prosecution in question would have to be quashed. In this connection,* ***Paramjeet Batra v State of Uttarakhand, (2013) 11 SCC 673*** *can be referred to:*
>
> *'12. … <u>Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of</u>*

> *criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process of the court.'*
>
> *(emphasis supplied)*
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> *43. In* ***Usha Chakraborty v State of West Bengal, (2023) 15 SCC 135,*** *while quashing the FIR therein and further proceedings based thereon, it was observed '…the factual position thus would reveal that the genesis as also the purpose of criminal proceedings are nothing but the aforesaid incident and further that the dispute involved is essentially of civil nature."*

19. **The four core elements of a crime** are **Actus Reus** (the guilty act), **Mens Rea** (the guilty mind/intent), **Concurrence** (the act and intent must happen together), and **Causation** (the act must cause the resulting harm). These elements, defined by statutes, must generally be present to establish criminal liability, proving someone **committed a harmful act with the required mental state.**

20. In ***Naresh Kumar & Anr. Vs The State of Karnataka & Anr., in Criminal Appeal No. ………. of 2024 (arising out of SLP (Crl.) No. 1570 of 2021), decided on March 12, 2024,*** the Supreme Court held:-

"5. *Under these circumstances, we are of the considered view that this is a case where the inherent powers should have been exercised by the High Court under Section 482 of the Criminal Procedure Code as the powers are there to stop the abuse of the process and to secure the ends of justice.*

6. *In the case of* ***Paramjeet Batra v. State of Uttarakhand (2013) 11 SCC 673,*** *this Court recognized that although the inherent powers of a High Court under Section 482 of the Code of Criminal Procedure should be exercised sparingly, yet the High Court must not hesitate in quashing such criminal proceedings which are essentially of a civil nature. This is what was held:*

"12. While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. ***A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process of the court."***

(emphasis supplied)

Relying upon the decision in ***Paramjeet Batra*** *(supra), this Court in* ***Randheer Singh v. State of U.P. (2021) 14 SCC 626,*** *observed that criminal proceedings cannot be taken recourse to as a weapon of harassment. In* ***Usha Chakraborty & Anr. v. State of West Bengal & Anr. 2023 SCC OnLine SC 90,*** *relying upon* ***Paramjeet Batra*** *(supra) it was again held that*

> *where a dispute which is essentially of a civil nature, is given a cloak of a criminal offence, then such disputes can be quashed, by exercising the inherent powers under Section 482 of the Code of Criminal Procedure.*
> ***7.*** *Essentially, the present dispute between the parties relates to a breach of contract. A mere breach of contract, by one of the parties, would not attract prosecution for criminal offence in every case, as held by this Court in* ***Sarabjit Kaur v. State of Punjab and Anr. (2023) 5 SCC 360.*** *Similarly, dealing with the distinction between the offence of cheating and a mere breach of contractual obligations, this Court, in* ***Vesa Holdings (P) Ltd. v. State of Kerala, (2015) 8 SCC 293,*** *has held that every breach of contract would not give rise to the offence of cheating, and it is required to be shown that the accused had fraudulent or dishonest intention at the time of making the promise."*

21. In ***Anukul Singh vs State of Uttar Pradesh and Anr., in Criminal Appeal No. 4250 of 2025 (arising out of SLP (Crl.) No. 2682 of 2020), decided on September 24, 2025,*** the Supreme Court held:-

> ***"11.*** *Before adverting to the facts of the present case, it is necessary to recapitulate the settled legal principles governing the exercise of inherent powers under Section 482 Cr.P.C. It is well established that though the High Court possesses wide and plenary inherent jurisdiction, such power is not unbridled or unlimited, but circumscribed by self-imposed restraints evolved through judicial pronouncements.*
> ***11.1.*** *This Court in* ***State of Haryana v. Bhajan Lal10*** *, at paragraph 102, laid down illustrative categories where quashing of proceedings is justified. These are:*
> *"(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in*

their entirety do not prima facie constitute any offence or make out a case against the accused.
(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or, where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.
(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."
*The categories in **Bhajan Lal** are illustrative and not exhaustive, but they provide guiding principles to balance two competing considerations – (a)preventing abuse of process of law, and (b)ensuring that criminal*

proceedings are not stifled at the threshold on disputed questions of fact.

11.2. Equally, this Court has consistently cautioned that the High Court, while exercising jurisdiction under Section 482 Cr.P.C., cannot embark upon a "minitrial" or weigh the sufficiency of evidence, which falls within the domain of the trial Court. The scope of enquiry is confined to whether, on a plain reading of the FIR / complaint and accompanying material, the ingredients of the alleged offence are disclosed. [See: ***Rajiv Thapar v. Madal Lal Kapoor 11 , HMT Watches v. Abida12, and Rathish Babu Unnikrishnan v. the State (Govt. of NCT of Delhi) and others13].***

11.3. In ***Md. Allauddin Khan v. State of Bihar 14*** *, it was reiterated that appreciation of contradictions or inconsistencies in witness statements lies within the exclusive domain of the trial Court and not in proceedings under Section 482 Cr.P.C. Similarly, in* ***CBI v. Aryan Singh15*** *, it was emphasized that the High Court had exceeded its jurisdiction by examining the merits of the prosecution's case and holding that charges were not proved, which is a matter strictly for trial.*

11.4. Nevertheless, an exception has been recognized where the defence relies upon unimpeachable, incontrovertible evidence of sterling quality – such as documents of undisputed authenticity – which ex facie demonstrate that continuation of criminal proceedings would be unjust and oppressive. This principle was recognized ***in Suryalakshmi Cotton Mills Ltd v. Rajvir Industries Ltd16,*** *and followed in subsequent decisions.*

11.5. Thus, the cumulative principles that emerge are: while the jurisdiction under Section 482 Cr.P.C is extraordinary and must be exercised sparingly, it is the duty of the High Court to intervene where continuation of criminal proceedings would amount to an abuse of process of law, or where the dispute is purely of a civil nature and criminal colour has been artificially given to it. Conversely, where *disputed questions of fact arise requiring adjudication, the matter must ordinarily proceed to trial.*

17. *This Court has, in a long line of decisions, deprecated the tendency to convert civil disputes into criminal proceedings. In* ***Indian Oil Corporation v. M/s. NEPC India Ltd. 17 ,*** *it was held that criminal law cannot be used as a tool to settle scores in commercial or contractual matters, and that such misuse amounts to abuse of process. The following paragraphs from the decision are apposite:*

"9. The principles, relevant to our purpose are:

(i) A complaint can be quashed where the allegations made in the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out the case alleged against the accused. For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with malafides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the

basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out: (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceedings are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.

10. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable break down of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure though criminal prosecution should be deprecated and discouraged."

18. *Similarly, in* ***Inder Mohan Goswami and another v. State of Uttaranchal and others18*** *, it was emphasized that criminal prosecution must not be permitted as an instrument of harassment or private vendetta. In* ***Ganga Dhar Kalita v. State of Assam19*** *, this Court again reiterated that criminal complaints in respect of property disputes of civil nature, filed solely to harass the accused or to exert pressure in civil litigation, constitute an abuse of process.*

19. *Most recently, in* ***Shailesh Kumar Singh @ Shailesh R. Singh v. State of Uttar Pradesh and others 20 ,*** *this Court disapproved the practice of using criminal proceedings as a substitute for civil remedies, observing that money recovery cannot be enforced through criminal prosecution where the dispute is essentially civil. The Court cautioned High Courts not to direct settlements in such matters but to apply the settled principles in Bhajan Lal. The following paragraphs are relevant in this context:*

"9. What we have been able to understand is that there is an oral agreement between the parties. The Respondent No.4 might have parted with some money in accordance with the oral agreement and it may be that the appellant – herein owes a particular amount to be paid to the Respondent No.4. However, the question is whether prima facie any offence of cheating could be said to have been committed by the appellant.

10. How many times the High Courts are to be reminded that to constitute an offence of cheating, there has to be something more than prima facie on record to indicate that the intention of the accused was to cheat the complainant right from the inception. The plain reading of the FIR does not disclose any element of criminality.

11. The entire case is squarely covered by a recent pronouncement of this Court in the case of "Delhi Race Club (1940) Limited vs. State of Uttar Pradesh" reported in (2024) 10 SCC 690. In the said decision, the entire law as to what constitutes cheating and criminal breach of trust respectively has been exhaustively explained. It appears that this very decision was relied upon by the learned counsel appearing for the petitioner before the High Court. However, instead of looking into the matter on its own merits, the High Court thought fit to direct the petitioner to go for mediation and that too by making payment of Rs. 25,00,000/- to the 4th respondent as a condition precedent. We fail to understand why the High Court should *undertake such exercise. The High Court may either allow the petition saying that no offence is disclosed or may reject the petition saying that no case for quashing is made out. Why should the High Court make an attempt to help the complainant to recover the amount due and payable by the accused. It is for the Civil Court or Commercial Court as the case may be to look into in a suit that may be filed for recovery of money or in any other proceedings, be it under the Arbitration Act, 1996 or under the provisions of the IB Code, 2016.*

12. Why the High Court was not able to understand that the entire dispute between the parties is of a civil nature.

13. We also enquired with the learned counsel appearing for the Respondent No.4 whether his client has filed any civil suit or has initiated any other proceedings for recovery of the money. It appears that no civil suit has been filed for recovery of money till this date. Money cannot be recovered, more particularly, in a civil dispute between the parties by filing a First Information Report and seeking the help of the Police. This amounts to abuse of the process of law.

14. We could have said many things but we refrain from observing anything further. If the Respondent No.4 has to recover a particular amount, he may file a civil suit or seek any other appropriate remedy available to him in law. He cannot be permitted to take recourse of criminal proceedings.

15. We are quite disturbed by the manner in which the High Court has passed the impugned order. The High Court first directed the appellant to pay Rs.25,00,000/- to the Respondent No.4 and thereafter directed him to appear before the Mediation and Conciliation Centre for the purpose of settlement. That's not what is expected of a High Court to do in a Writ Petition filed under Article 226 of the Constitution or a miscellaneous application filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR or any other criminal proceedings. What is expected of the High Court is to look into the averments and the allegations

> *levelled in the FIR along with the other material on record, if any. The High Court seems to have forgotten the wellsettled principles as enunciated in the decision of this Court in the "State of Haryana & Others vs. Bhajan Lal & Others" Reported in 1992 Supp.(1) SCC 335.""*

22. The facts in the present case appears to be a civil dispute arising out of disagreement in a business transaction, and in such cases, it has to be prima facie shown that there was/is criminal intent present.

23. The materials on record, herein including the case diary do not prima facie show presence of the ingredients required to constitute the offences alleged against the petitioners herein with absence of criminal intent and as such the proceeding in this case is thus liable to be quashed in the interest of Justice, to prevent an abuse of the process of law.

24. CRR 5075 of 2024 is thus allowed.

25. The proceeding being GR (NS) Case No.218/24 arising out of the proceedings in Bowbazar P.S. Case No. 57/24 dated 12.04.24 under Sections 120B/420/406 of the Indian Penal Code, 1860, pending before the Court of Learned Additional Chief Metropolitan Magistrate-II, Calcutta, **is hereby quashed in respect of the petitioners namely Adarsh Parasramka and Seema Trading Company.**

26. All connected Applications, if any, stand disposed of.

27. Interim order, if any, stands vacated.

28. Copy of this judgment be sent to the learned Trial Court for necessary compliance.

29. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

[Shampa Dutt (Paul), J.]