

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CRM(M)/159/2024

C.O GTL INFRASTRUCTURE LIMITED ...Appellant/Petitioner(s)
(GIL) ELECTRONICS AND ORS.

Through: Mr. Farhat Zia, Advocate

Vs.

NAZIR AHMAD KHAN

...Respondent(s)

Through: Mr. Waseem Shamas, Advocate

CORAM:

HON'BLE MR JUSTICE SANJAY PARIHAR, JUDGE

ORDER
29.05.2026

- 1.** Heard learned counsel for the parties at length and perused the record.
- 2.** Learned counsel for the respondent raised a preliminary objection regarding the maintainability of the present petition, contending that the matter is still at a nascent stage. It was submitted that vide order dated 14.09.2022, the learned Trial Court had referred the complaint for enquiry under Section 202 of the Code of Criminal Procedure and, therefore, no cognizance has yet been taken. According to the respondent, the present petition is premature.
- 3.** Per contra, learned counsel for the petitioner submitted that even a bare reading of the complaint does not disclose the essential ingredients constituting an offence under Section 420 IPC. It was argued that the dispute between the parties emanates from a lease agreement whereby the complainant had leased out his premises to the petitioner for installation of a telecommunication tower. Pursuant thereto, a formal lease deed was executed and the tower was duly erected. Any dispute relating to payment of rent or alleged breach of contractual obligations would, at best, give rise to civil consequences and cannot attract criminal liability under Section 420 IPC in the absence of any allegation of deception from the inception of the transaction.
- 4.** Having considered the rival submissions and upon a careful perusal of the complaint, this Court finds that it is an admitted position that the

parties entered into a lease agreement for installation of a mobile tower on the complainant's land for a period of twenty years commencing from 30.07.2008 on a monthly rent of Rs. 3,500/-, subject to enhancement by 10% after every five years. Pursuant to the said agreement, the petitioner installed the mobile tower and related infrastructure on the leased premises.

- 5.** The grievance projected in the complaint is that the petitioner has failed to pay rent from the year 2019 onwards despite repeated requests and legal notices issued by the complainant. It is alleged that such non-payment has caused financial hardship to the complainant, for whom the rent constituted the sole source of income. On that basis, the complainant seeks to attribute the offence of cheating to the petitioner.
- 6.** A plain reading of the complaint, however, reveals that there is no allegation whatsoever indicating that the petitioner had induced the complainant to enter into the agreement by practicing deception or fraudulent misrepresentation. There is not even a whisper in the complaint suggesting that the petitioner possessed a dishonest intention at the inception of the transaction. The allegations, even if accepted in their entirety, merely disclose a dispute concerning performance of contractual obligations and payment of rent arising out of a lease arrangement.
- 7.** It is well settled that every breach of contract does not amount to cheating. For attracting the offence punishable under Section 420 IPC, the complainant must prima facie establish that the accused had a fraudulent or dishonest intention from the very beginning and that such deception induced the complainant to part with property or to act to his detriment. The complaint in the present case is conspicuously silent on these foundational requirements.
- 8.** The material placed on record only demonstrates the existence of a civil dispute relating to payment of rent under a subsisting contractual arrangement. The criminal process cannot be permitted to be used as a tool for enforcement of contractual obligations or for exerting pressure in matters which are essentially civil in nature.
- 9.** Although the learned Trial Court has not yet issued process against the petitioner, this Court is satisfied that the complaint, on its face, fails to disclose the commission of any offence under Section 420 IPC.

Permitting such proceedings to continue would amount to an abuse of the process of law and would result in unnecessary harassment of the petitioner.

10. Accordingly, the present petition is allowed. The complaint pending before the learned Trial Court, insofar as it relates to the petitioner, is hereby quashed. It shall, however, remain open to the respondent/complainant to avail such civil or other legal remedies as may be available to him in accordance with law.

11. **Disposed of** along with all connected applications, if any.

SRINAGAR
29.05.2026
Shabroz

