



140

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39732-2019 (O&M)
RESERVED ON: 02.07.2026
PRONOUNCED ON: 09.07.2026

KUNDAN KUMAR PETITIONER

VERSUS

STATE OF HARYANA AND ANOTHER RESPONDENTS

1.	Date when Order was reserved	02.07.2026
2.	Pronouncement of Order	09.07.2026
3.	Date of uploading Order	09.07.2026
4.	Whether operative part or full Order is pronounced	Full
5.	Delay, if any, in pronouncing of full order, and reasons thereof	Not Applicable

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH.

Present: Mr. Abhimanu Jangra, Advocate,
for the petitioner.

Ms. Malvika Singh, DAG, Haryana.

Dr. Sumati Jund, Advocate (Legal Aid Counsel), and
Mr. Rahul Saini, Advocate, for the complainant.

SANJAY VASHISTH, J (ORAL)

1. Petitioner, Kundan Kumar, aged 28 years, has filed present petition, under section 482 of Cr.P.C., for quashing of FIR No.213 dated 30.05.2018, registered under sections 420 and 406 of IPC, and section 66 of the Information Technology Act, 2000, at Police Station Udyog Vihar, District Gurugram.



2. Respondent No. 2/complainant, namely Virendra Chaudhary, placed an order for five LED TVs on the website <https://www.viraldeal.co.in>; however, the said LED TVs were not delivered. Despite cancellation of the order, the amount was not refunded. In this regard, present FIR was registered. Contents of the FIR are as follows:-

“Respected Sir, I Virendra Chaudhary placed order for five 32 inch Smart BluBee LED televisions on <https://www.viraldeal.co.in> website, but LED TVs were not delivered, after that I cancelled the order but money was not refunded to me. This fraud has been happening with lakhs of people on daily basis, it is very important to stop such activity and punish the convicted person. Kindly help me in getting my money back. Please find the below detail. Order ID-128031000050861, Status- Cancelled, placed on 28.08.2017. Placed by Virendra Chaudhary, price Rs. 32,995 please find the attached document as a proof, Password for bank statement is vire04Oct. Please help me in getting my money back, any order information you require then you can call me at below phone Number. Regards, Virendra Chaudhary, Polaris consultancy services Ltd. 249, Polaris Tower, Udyog Vihar, Phase-IV, Gurugram, Haryana-122001, India Ph: 9911389058.”

3. Counsel for the petitioner submits that after preparing the *challan* in the form of a final report, the same was submitted on 23.04.2019 before the Court of learned Area Magistrate.

4. Referring to the FIR as well as *challan*, learned counsel for the petitioner submits that the present criminal proceedings have been initiated unnecessarily, as the dispute in question is purely of a civil nature. It is contended that due to non-delivery of the LED TVs,



complainant's work was adversely affected, and even in the FIR itself, he had sought refund of the amount.

It is further submitted that, as per the investigation, due to a technical defect/deficiency in the server, the order was wrongly reflected in the "failed" column instead of "pending" column, and therefore, the order placed by respondent No.2 could not be processed, resulting in non-delivery of the televisions.

5. Referring to paragraph No.2 of the status report dated 20.02.2020 filed by the State (already appended with the present petition), learned counsel for the petitioner submits that even prosecution has acknowledged the fact that an amount of Rs. 32,995/- was refunded to respondent No.2, vide DD No. 505332 dated 11.10.2018. Further, receipt/acknowledgment dated 12.10.2018 (Annexure P-3) appended with the present petition also evidences receipt of the said amount.

It is, thus, submitted that within about five months of registration of the FIR, the entire amount was refunded to the complainant, which was never subsequently disputed by him. It is further submitted that despite service, respondent No.2 has not come forward to participate in the proceedings.

Therefore, learned counsel contends that at best, dispute, if any, is of a civil nature, for which remedy lies before a Civil Court or under the provisions of the Consumer Protection Act, 2019, for claiming damages, if so advised.



6. Learned counsel for the petitioner further relies upon the judgment passed by Hon'ble Apex Court in the case of 'Anukul Singh vs. State of Uttar Pradesh and Another, 2025 SCC Online SC 2060, Law Finder Doc ID #2783357' (Criminal Appeal No. 4250 of 2025) and 'Naurati Lal vs. State of Haryana and Another, 2023(3) RCR (Criminal) 267, Law Finder Doc ID #2162123' (passed by this Court in CRM-M-13042-2008), and thus, prays for quashing of the FIR and all consequential proceedings arising therefrom.

7. On the other hand, learned State counsel submits that commission of a crime is to be assessed at the time of registration of FIR, and any subsequent refund of the amount would not dilute the alleged commission of offence. It is, thus, contended that no benefit can be extended to the petitioner, on this ground.

It is further submitted that *challan* already stands presented before the competent Court, and petitioner would have full opportunity to cross-examine the witnesses and contest the allegations, during trial. Thus, learned State counsel prays for dismissal of the present quashing petition.

8. This Court has heard the submissions addressed by counsel for the parties and has also gone through the record available before it.

9. As regards the presence of respondent No.2, it would be appropriate to notice that, vide order dated 25.07.2024, respondent No.2 was served through WhatsApp; however, he stated that he resides in Mathura and declined to disclose his address. Thereafter, since



14.05.2024 till date, no representation has been made either by respondent No.2 himself, through counsel, or through any authorized representative.

However, it is evident that respondent No.2 has complete knowledge of the pendency of the present proceedings. Despite having received the refunded amount, he has chosen not to participate in the present proceedings. It appears that respondent No.2/complainant is not interested in pursuing the matter further, whereas the parties have been compelled to litigate the issue, arising from his complaint. Conduct of respondent No.2, therefore, deserves to be deprecated.

10. Undisputed fact which emerges is that dispute pertains to a relatively small amount of Rs.32,995/-, which was duly refunded to respondent No.2 within five months of registration of the FIR. The reasons recorded during investigation for non-delivery of the LED TVs also appear to be plausible and supported by material on record.

11. Once the amount stood refunded as demanded in the FIR itself, this Court is at a loss to understand the necessity for continuation of criminal proceedings initiated for recovery of Rs.32,995/-.

Learned State counsel has also not disputed that the aspect of refund was not brought to the notice of the petitioner prior to registration of the FIR. Had such exercise been undertaken at the relevant time, in all likelihood, present litigation could have been avoided. Thus, dispute appears to be essentially of a civil nature, with no criminal intent discernible from the facts of the case.



12. In **Anukul Singh's case (supra)**, Hon'ble Apex Court, while reiterating the parameters laid down in *State of Haryana vs. Bhajan Lal*, 1992 (1) SCC 355 : 1992 SCC (Cri) 426, observed in paragraph Nos.11 and 11(1) as under:-

*“**11.** Before advertg 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 Lal](#), 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.”

13. Similarly, in **Naurati Lal’s case (supra)**, the co-ordinate

Bench of this Court observed as under:-



“Adverting to the facts of the present case, the dispute that had arisen between the petitioner and the complainant was regards the air conditioning plant manufactured by Blue Star company, the installer of which was the petitioner. The company was also therefore arrayed as an accused, however, was not challaned. The complainant began the litigation with regard to deficiency in service by filing a complaint under the Consumer Protection Act, 1986, which was however, got dismissed as withdrawn by him with costs of Rs.10,000/-vide order dated 23.05.2007, with liberty to file a civil suit. Instead of filing a suit, he filed a criminal complaint under Sections 406, 420, 500, 506 IPC, upon which FIR in question came to be registered against the petitioner and he was charge sheeted vide order dated 18.09.2006, Annexure P-7, under Sections 406, 420, 506 IPC. It is imperative to note that even a bare reading of complaint does not disclose ingredients of offence of misappropriation and criminal breach of trust or cheating to have been committed by the petitioner. The intention to cheat from the very inception, which is the gist of the offence, has not been established even after conduct of investigation, which is apparent from the Final Report. To hold a person guilty of cheating, it is necessary to show that he had fraudulent or dishonest intention, which has neither been the allegations as per the complaint nor has any evidence emerged in that regard. The complainant had failed to make out any case as per which, the petitioner can be said to have dishonestly misappropriated or converted to his own use the property, or dishonestly used or disposed of



*the air conditioning plant, for which he was a mere installer and the allegation was of the same being faulty. Likewise, there is no material to substantiate the offence of criminal intimidation as no evidence was brought forth in the final report regarding the intention of the petitioner to cause alarm to the complainant. For a case of breach of agreement between the parties or refusal to rectify the deficiency in installation of the air conditioning plant manufactured by the company- Blue Star, no criminal liability could be fastened upon the petitioner. Since, no iota of evidence could be collected by the police during investigation, that discloses the charge against the petitioner, no offence under the sections as alleged in the FIR could be held to have been attracted, thus, allowing the proceeding to continue would be an abuse of the process of the Court and the ends of justice require that the proceedings in the present case be quashed, in the exercise of the wholesome power under Section 482 of the Code as held by Hon'ble The Supreme Court of in the case of **State of Karnataka v. L. Muniswamy and Others**, AIR (1977) SC 1489.”*

14. In view of the aforementioned discussion, it is evident that no criminal offence is made out against the petitioner. Rather, FIR appears to have been lodged by the complainant, solely with the intent to secure recovery of the amount at the earliest, instead of availing appropriate remedy before the Civil Court or the Consumer Forum. Complainant succeeded in getting the criminal proceedings initiated, thereby subjecting the petitioner to unnecessary harassment, despite the



fact that the entire amount stood refunded within five months of registration of the FIR.

15. It is further observed that the complainant did not deem it appropriate to inform this Court or even learned trial Court that the purpose of initiating the proceedings had already been achieved by receipt of the refunded amount, which he had originally paid.

16. Consequently, **present petition is allowed;** and impugned FIR No.213 dated 30.05.2018, registered under sections 420 and 406 of IPC, and section 66 of the Information Technology Act, 2000, registered at Police Station Udyog Vihar, District Gurugram, along with all consequential proceedings arising therefrom, is hereby quashed.

17. Let copy of this order be forwarded to learned trial Court for information and necessary compliance.

09.07.2026
Lavisha

(SANJAY VASHISTH)
JUDGE

Whether speaking/reasoned ✓Yes/~~No~~
Whether reportable ✓Yes/~~No~~