IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76363 of 2025

Arising Out of PS. Case No.-292 Year-2025 Thana- KASBA District- Purnia

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1. Rajeev Sinha, male, aged about 50 years, Son of Late Amar Nath Prasad, Resident of - Block 25, Flat no. 10 F, Greenfield City, Sibrampur, Kolkata, Pin - 700141, Bihar State Sale Head, Uma Consumer Product Limited, Minerva, 1st Floor, 97, Santhome High Road, Chennai - 600004
2. Sanjeev Dar, male, aged about 47 years, Son of Late Sri Avinash Chander Dar, Resident of - Flat no. 1503, Living Essence, Lokhandwala Township, Kanivili East, Mumbai, Pin - 400101, Marketing Head, Uma Consumer Product Limited, Minerva, 1st Floor, 97, Santhome High Road, Chennai - 600004
3. Rajiv Grover, male, aged about 49 years, Son of Sri Anand Prakash Grover Resident of - 1002, Tower 22, Shriram Park 63, New Perungalathur, Chennai, Tamil Nadu - 600063, Logistic Head, Uma Consumer Product Limited, Minerva, 1st Floor, 97, Santhome High Road, Chennai - 600004

... ... Petitioner/s

Versus

1. The State of Bihar
2. Praveen Narayan S/o Bisheshwar Bhagat R/o - Sakin Patel Chowk, P.S - Katihar, District - Katihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Singh, Advocate
Mr. Apurv Harsh, Advocate
Mr. Manu Tripurari, Advocate
Mr. Raghu Raj Pratap, Advocate
Mr. Jaya Singh, Advocate
Mr. Pranshu Prakash, Advocate

For the Opposite Party/s : Mr. Ajit Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL JUDGMENT

Date : 16-12-2025

Heard Mr. Rajeev Kumar Singh, learned counsel along with Mr. Apurv Harsh, learned counsel appearing on behalf of the petitioners and Mr. Ajit Kumar, learned A.P.P. for the State.

2. The petitioners have preferred application under Section 528 BNSS for quashing of FIR in connection with Kasba P.S. Case No. 292 of 2025 registered for offences

punishable under Sections 318 (4), 316(2), 61(2), 351(2) and 3(5) of the B.N.S.

3. The prosecution story in brief is that the Informant, namely, Praveen Narayan, is a distributor of Annapurna Salt under UMA Consumer Product Limited and he had furnished a bank guarantee of ₹1,25,00,000/- (Rupees One Crore Twenty-Five Lakh only) in favor of the said company and also has a pending claim of approximately 50-60 lakh to be received from UMA Consumer Product Limited. He had distributed goods worth about ₹2-3 crore in the market on credit, strictly following the company's terms and conditions. The petitioners had allegedly coerced the informant to purchase two rakes per month, threatening to stop his work and withhold his money otherwise and had allegedly conspired to embezzle the complainant's funds. On 26.09.2025, the company refused to provide further supplies to the informant and, via email, informed the informant that his money would not be returned and that the goods stored in the warehouse would be destroyed as a result which, the complainant claims to have suffered a financial loss of approximately 4.5 crore and severe mental harassment. Aggrieved by the said act, the information has lodged FIR being Kasba P.S. Case No. 292 of 2025 against the

petitioners.

4. Learned counsel appearing on behalf of the petitioners submitted that the company, namely, UMA Consumer Products Private Limited appointed Mr. Praveen Narayan (informant), who is proprietor of the Pragati Agencies, as a Carrying and Forwarding Agent (CFA) upon express representations of adequate manpower and experience. A Bank Guarantee of Rs. 1,25,00,000/- was furnished by the informant as performance/security. However, at the time of inspection of Pragati Agencies's warehouse, it transpired that even basic statutory/operational registers (Inward/Outward) were not maintained. Despite repeated escalations and reminders by the company, compliance remained wanting at the end of Pragati Agencies. The company adopted a supportive, corrective approach rather than termination. In June 2025, the company transitioned the CFA relationship to Distributorship, appointing M/s Bhawani Stores, Proprietor- Smt. Mala Devi at the instance of Mr. Praveen Narayan (family). The company expressly cautioned at inception that Distributorship requires adequate credit/working capital to fund secondary, minimum four salesmen (scalable with growth), market coverage & retail service, a monthly rake commitment (~1,300 MT), regular

MIS/DSR/ageing, and robust warehouse registers. The company representatives even facilitated candidate interactions (as a gesture of support), but clarified that recruitment, deployment and supervision of sales staff is the Distributor's non-delegable obligation. Despite repeated guidance by email and in-person, M/s Bhawani Stores failed to deploy the adequate skilled manpower, did not submit regular MIS (stock, secondary sales, ageing), and did not maintain data hygiene. On ground, the wholesalers were permitted to lift directly from the rake/stock point. The business remained confined to a handful of Katihar parties (~90%), with negligible geographic expansion elsewhere in Purnea, Bihar. In meetings, instead of addressing sufficient skilled manpower, beat plans, coverage and credit discipline, Mr. Praveen Narayan while representing M/s Bhawani Stores, repeatedly flaunt political connections, which is irrelevant to distributorship performance and did not remedy operational deficiencies. After multiple opportunities and escalations, the company discontinued the Distributorship vide email dated 25.09.2025, effective 30.09.2025. Learned counsel further submitted that on 27.09.2025, Smt. Mala Devi. Proprietor of M/s Bhawani Stores, sent a legal notice via email to the Consumer Products Private Limited. On 27.09.2025 two days before the effective termination, the Distributor side lodged the impugned police complaint on the same commercial matrix, while paradoxically seeking continuation of the relationship. The timing and tenor expose the mala fides and the attempt to weaponize criminal law for commercial leverage. In reply to the legal notice dated 27.09.2025, the Consumer Products Private Limited company sent a reply to the aforementioned legal notice on 30.09.2025. Learned counsel further submitted that the informant has already filed money suit being Commercial Suit Case No. 01 of 2025 before the Principal District Judge, Purnea. On the above backgrounds, learned counsel submitted that the impugned FIR is a sheer abuse of the process of law and the criminal proceedings based on this have been initiated on completely false premise and are, therefore, liable to be quashed by this Hon'ble Court in the interest of justice. The allegations contained in the Impugned FIR are wholly devoid of merit and are completely false and tainted with *mala fides* and the FIR is fit to be quashed and set aside.

5. Learned counsel appearing on behalf of the State submitted that it is well settled principle of law that the police has the statutory right and duty under the provision contained in Chapter XIV of the Code of Criminal Procedure to investigate

into cognizable offence and a caution has been made by the Apex Court while exercising jurisdiction under Section 482, the Court would not thwart any investigation in cognizable offence. Learned counsel submitted that the petitioner, however, may take recourse to the whatever defence he has taken before this Court, at the time of framing of the charge. However, Learned APP for the State submitted that the matter is purely civil in nature and a chance be given to the parties for amicable settlement outside the court.

6. Learned counsel appearing on behalf of the petitioners, on instruction, submitted that to buy peace of mind, petitioner wants to settle the dispute amicably outside the Court and the petitioners have agreed to appear before the learned District Court on 24.12.2025 at 10:30 A.M.

7. Heard the parties.

8. Before I proceed to analyse, I find that recently, the Apex Court in the case of ***Arshad Neyaz Khan Vs. State of Jharkhand & Anr.***, reported in (***2025) SCC OnLine SC 2058,*** upon analysis of law, has finally concluded that Sections 406 and 420 of the Indian Penal Code cannot co-exist simultaneously. The observations made by the Apex Court in Para-16, 20 and 21 are reproduced hereinafter:

> ***"16.*** *The contents of the complaint as well as*

the FIR would have to be read in light of the ingredients of Sections 406 and 420 IPC and the law settled by this Court through various judicial dicta. On perusal of the complaint dated 29.01.2021, it is noted that the complainant/respondent No. 2 has filed the said complaint invoking Sections 406, 420 and 120B IPC. For ease of reference, the aforesaid Sections are extracted as under:

*"**406. Punishment for criminal breach of trust.—** Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.*

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***420. Cheating and dishonestly inducing delivery of property.-** Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.*

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***120B. Punishment of criminal conspiracy.-**(1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.*

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both."

***20.** On perusal of the allegations contained in the complaint, in light of the ingredients of Section 406 IPC, read in the context of Section 405 IPC, do not find that any offence of criminal breach of trust has been made out. It is trite law that every act of breach of trust may not result in a penal offence unless there is evidence of a manipulating act of fraudulent misappropriation of property entrusted to him. In the case of criminal breach of trust, if a person comes into possession of the property and receives it legally, but illegally retains it or converts it to its own use against the terms of contract, then the question whether such retention is with dishonest intention or not and whether such retention involves criminal breach of trust or only a civil liability would depend upon the facts and circumstances of*

> *the case. In the present case, the complainant/respondent No. 2 has failed to establish the ingredients essential to constitute an offence under Section 406 IPC. The complainant/respondent No. 2 has failed to place any material on record to show us as to how he had entrusted property to the appellant. Furthermore, the complaint also omits to aver as to how the property, so entrusted to the appellant, was dishonestly misappropriated or converted for his own use, thereby committing a breach of trust.*
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> ***21.** Furthermore, it is pertinent to mention that if it is the case of the complainant/respondent No. 2 that the offence of criminal breach of trust as defined under Section 405 IPC, punishable under Section 406 IPC, is committed by the accused, then in the same breath it cannot be said that the accused has also committed the offence of cheating as defined in Section 415, punishable under Section 420 IPC. This Court in Delhi Race Club (1940) Limited v. State of Uttar Pradesh, (2024) 10 SCC 690 observed that there is a distinction between criminal breach of trust and cheating. For cheating, criminal intention is necessary at the time of making false or misleading representation i.e. since inception. In criminal breach of trust, mere proof of entrustment is sufficient. Thus, in case of criminal breach of trust, the offender is lawfully entrusted with the property, and he dishonestly misappropriates the same. Whereas, in case of cheating, the offender fraudulently or dishonestly induces a person by deceiving him to deliver a property. In such a situation, both offences cannot co-exist simultaneously. Consequently, the complaint cannot contain both the offences that are independent and distinct. The said offences cannot co-exist simultaneously in the same set of facts as they are antithetical to each other."*

9. Considering the nature of allegation made in the F.I.R. which has a civil flavor and the same *prima facie* don't 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 law.

10. On earlier occasion also, similar view has been taken by the Apex Court in para-12 in case of

Paramjeet Batra v. State of Uttarakhand, (2013) 11 SCC 673, which is reproduced hereinafter::

> *"**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."*

11. In case of ***Usha Chakraborty v. State of West Bengal, (2023) 15 SCC 135***, while quashing the FIR therein and further proceedings based thereon, the Apex Court observed as under: -

> '*...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.'*

12. The Apex Court has reiterated the aforesaid preposition in recent judgment of ***S.N. Vijayalakshmi & Ors. Vrs. The State of Karnataka and Anr.*** reported in ***(2025) SCC Online SC 1575.***

13. The dispute between the parties is purely civil in

nature and the petitioner has willingly desired to appear before the learned District Court on 24.12.2025 at 10:30 AM, so that the matter can be referred to the District Mediation Centre.

14. Learned District Court is directed to take necessary steps to issue notices to the respective parties and upon their appearance, refer the matter before the learned Mediator of the District Mediation Center by fixing a date for appearance of the parties.

15. Learned Mediator of the District Mediation Center concerned shall make his/her best efforts to settle the dispute between the parties amicably and thereafter submit his/her report before the concerned learned District Court, well within a period of four months, till then, no coercive action shall be taken against the petitioners in connection with the aforesaid case.

16. In case, the parties resolve their dispute amicably, then the proceeding is required to be dropped in light of the law laid down by the Apex Court as referred hereinabove.

17. In case of failure on the part of the petitioners to appear on 24.12.2025 before the learned District Court or any date fixed by the learned Mediator, without any reason, the interim protection granted to the petitioners shall automatically

lose its force.

18. In case, it is deliberate on the part of the petitioners and they fail to reconcile, then in that case, the learned District Court shall proceed with the trial. In case, it is deliberate on the part of the opposite party no.2 to reconcile, then in that case, the interim protection granted to the petitioners shall continue and the trial shall proceed in accordance with law.

19. It is observed that the police, at the stage of filing of chargesheet, and the criminal court, at the stage of framing of charges, must act as initial filters ensuring that only cases with a strong suspicion should proceed to the formal trial stage to maintain the efficiency and integrity of the judicial system.

20. Accordingly, the order taking cognizance is modified to the above extent.

21. The application stands disposed of.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	19.12.2025
Transmission Date	19.12.2025