IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

PRESENT:
THE HON'BLE JUSTICE UDAY KUMAR

CRR 285 of 2023
With
CRAN 2 of 2025

Sreelekha Ray & Anr.
-Vs-
Sarita Agarwal

For the Petitioners	:	Mr. Ranojoy Chatterjee Mr. Tamal Singha Roy
For the Opposite Party	:	Mr. Pradeep Kumar Tulsyan Mr. Tirthankar Dey
Hearing concluded on	:	04.11.2025
Judgment on	:	28.11.2025

UDAY KUMAR, J.: –

1. Invoking the inherent power conferred by Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.), this Criminal Revisional Application challenges the continuance of criminal proceedings, being CN/1830 of 2022, pending against the Petitioners (Sreelekha Ray and Debayan Ray of M/s Vagabati Board and Paper Mill) for offences punishable under Sections 406/418/420/120B/34 of the Indian Penal Code, 1860 (IPC), primarily on the ground that the underlying cause of action pertains strictly to a breach of contract and a commercial debt dispute, which has been maliciously dressed up as a criminal offense.

2. The core contention of the Petitioners is that the matter lacks the essential element of criminal intent (*mens rea*) required for IPC offenses, particularly Section 420 (Cheating). The dispute, initiated by the Opposite Party (Sarita Agarwal, M/s Balaji Adhesive), concerns the non-payment for a supply of chemical products valued at Rs. 49,560/-.The fundamental assertion of the Petitioners is that the underlying cause of action is strictly a breach of contract and a commercial debt dispute, which has been maliciously cloaked as a criminal offense, thereby lacking the essential element of criminal intent (*mens rea*). The dispute concerns the non-payment for chemical products (Auromine Colour and Ferric Alum) supplied by the Opposite Party, valued at Rs. 49,560/-.
3. The factual matrix reveals that the relationship commenced in October 2017 with the Petitioners allegedly making "lustrous representations" to induce the supply of goods (specifically Auromine Colour and Ferric Alum) on credit. The controversy is now sharply drawn over two conflicting, mutually exclusive facts: The controversy rests upon two sharply drawn, mutually exclusive factual claims. The Petitioners assert that the goods supplied were of inferior quality and were unequivocally returned on January 28, 2018. This factual position is claimed to be supported by documents concerning the lorry and driver annexed in the Supplementary Affidavit. Conversely, the Opposite Party denies the return, alleging that the Petitioners induced the transaction through "lustrous representations" regarding their "good business repute." The Opposite Party cites as irrefutable proof of dishonest intent the fact that the Petitioners subsequently issued a cheque for part payment on May 30, 2018, which was later dishonoured due to "Fund Insufficient." This cheque

issuance, occurring four months after the claimed return, is posited as crucial evidence of a calculated dishonest design.

4. Fundamentally, the judicial determination required for the disposal of this Application hinges on the following legal query:

> *"Whether the patent contradiction arising from the Petitioners' specific claim of having returned the entirety of the inferior goods on January 28, 2018, and their subsequent issuance of a dishonoured cheque on May 30, 2018, for part payment of the bill amount, prima facie indicates a culpable dishonest intention (mens rea) sufficient to warrant the continuance of the criminal proceedings, or whether the dispute is simpliciter a commercial breach of contract, justifying the invocation of inherent power to quash the complaint?"*

5. Mr. Ranojoy Chatterjee, Learned Counsel for the Petitioners, argued forcefully that the prosecution constitutes is an abuse of process and legally unsustainable.

6. He commenced by asserting that the dispute is *ex facie* civil, relating solely to the recovery of debt, and thus lacks the *sine qua non* of an offence affecting "society at large," as defined in ***Kehar Singh Nihal Singh Vs Custodian General*** (AIR 1959 P&H 58). Reliance was placed upon ***Vesa Holdings Private Limited -vs- State of Kerala*** (2015 (8) SCC 293), which strictly mandates that dishonest intent must be present *a priori*, at the inception of the transaction.

7. Learned Counsel contended that the non-payment arose solely because the goods were returned on January 28, 2018, a factual position reinforced by documentary evidence concerning the lorry and driver annexed to the

Supplementary Affidavit. The representation of "good repute" to secure the deal, he argued, is routine commerce, not deception.

8. Furthermore, Mr. Chatterjee underscored that the complaint was filed in 2022, well after the three-year Civil Limitation period for the 2018 transaction had expired, demonstrating a *mala fide* intent to harass and recover a time-barred debt. He cited ***Usha Chakraborty -vs- State of West Bengal*** (2023 SCC OnLine SC 90) and numerous concurring precedents (*Nagender Yadav*, *Paramjeet Batra*, *Mitesh Kumar J. Sha*, *Randhir Singh*, *Syed Yaseer Ibrahim*) to demonstrate the consistent judicial opinion against the criminalization of commercial disputes.

9. *Per-contra*, Mr. Pradeep Kumar Tulsyan, Learned Counsel for the Opposite Party, vehemently countered that the Petitioners' own contradictory actions establish a premeditated criminal design.

10. He relied upon the binding ratio of ***Rajesh Bajaj vs State NCT Of Delhi And Others*** (AIR 1999 SC 1216), which laid down that the *"intention of the accused is the crux of the offence of cheating, not the nature of the commercial transaction."*

11. He asserted that the issuance of the cheque dated May 30, 2018, for a portion of the bill amount, four months after the claimed return date of January 28, 2018, is presented as crucial proof that the goods were accepted, which irrefutably establish *mens rea*. This contradiction, he argued, renders the defence of "return due to poor quality" a subsequent fabrication designed to cover up the fraud, thereby satisfying the ingredient of cheating.

12. Mr. Tulsyan contended that the Petitioners' attempt to introduce documentary evidence of the return (lorry receipts) constitutes an improper

invitation to the High Court to engage in adjudication of disputed facts, which is forbidden under its limited quashing jurisdiction. He stressed that the glaring factual conflict confirms the criminal culpability is a triable issue that must be tested at trial through the detailed process of evidence and cross-examination.

13. The core of the present criminal revisional application arises from a commercial transaction, where the Petitioners contend that they rejected the goods due to quality issues and subsequently returned them on January 28, 2018. If this stood as the unimpeached truth, the matter would likely be confined to a mere civil breach of contract, as cautioned by the Supreme Court in *Vesa Holdings (P) Ltd. Vs. State of Kerala,* [(2015) 8 SCC 293], which holds that a person does not *ipso facto* commit a criminal offence merely by committing a breach of contract and that *"The material produced by the complainant must disclose that the dishonest intention was there from the very inception."*

14. However, the legitimacy of the Petitioners' defence of return is fundamentally impeached by their own subsequent, irrefutable act: the issuance of a cheque dated May 30, 2018, for part payment. This cheque was drawn a full four months after the Petitioners claimed the goods were rejected and returned. This glaring temporal and transactional inconsistency creates a patent factual contradiction, as no *bona fide* litigant issues a payment instrument acknowledging a debt for goods they genuinely claim to have returned months earlier.

15. While the Hon'ble Supreme Court in *Vesa Holdings (P) Ltd. Vs. State of Kerala,* [(2015) 8 SCC 293], cautions against criminalizing a mere breach of contract,

mandating that the dishonest intention must be present "from the very inception," this contradictory act elevates the matter. This manoeuvre transforms the character of the default into an act strongly indicative of a calculated scheme of deception under Section 420 IPC, sufficient at this *prima facie* stage to argue that the dishonest intent was intrinsically linked to the transaction.

16. This principle supports the argument that the remedy for non-payment lies in a Civil Court, especially since the civil limitation period had expired, as argued by Mr. Chatterjee citing the principle laid down in ***Kehar Singh Nihal Singh Vs Custodian General*** (AIR 1959 P&H 58). This principle is sound and must guide the Court's assessment.

17. While *Vesa Holdings* demands dishonest intent (*mens rea*) at the inception of the transaction, the totality of the Petitioners' continuous and contradictory conduct—issuing a cheque for supposedly returned goods—is sufficient at this preliminary stage to argue that the dishonest intent was intrinsically linked to the transaction. This furnishes the necessary evidentiary foundation for the complainant's narrative, thus elevating the case from one of civil breach to one where criminal culpability is a triable issue.The cheque contradiction suggests that the contract was used as a vehicle for a dishonest gain.

18. The determination of whether this patent factual contradiction proves dishonesty from the inception is a question that hinges entirely on the weight accorded to the contradictory narratives, which is the exclusive domain of the Trial Court.

19. The determination of whether this patent factual contradiction proves dishonesty from the inception is a question that requires the weighing of evidence. This Court is strictly constrained by the binding mandate in *Rajesh Bajaj v. State NCT of Delhi And Others* [(1999) 3 SCC 259]. The Supreme Court explicitly warned against the High Court adopting a:

> *"strictly hyper-technical approach and sieved the complaint through a cullendar of finest gauzes... Such an endeavour may be justified during trial, but certainly not during the stage of investigation."*

20. The resolution of this fundamental conflict—the examination of the veracity of the Petitioners' alibi against the implication of their own contradictory action—is a matter solely reserved for the detailed process of evidence collection and cross-examination. To consider the Petitioners' documentary defence (lorry receipts and evidence of return) at this stage would demand that this Court enter into a comparative weighing of evidence against the Complainant's document (the cheque), thereby performing the prohibited exercise of a mini-trial, an act expressly forbidden by the *Rajesh Bajaj* ratio.As the Supreme Court held:

> *"The crux of the postulate is the intention of the person who induces the victim of his representation and not the nature of the transaction which would become decisive in discerning whether there was commission of offence or not."*

21. Consequently, applying the *Rajesh Bajaj* ratio, the factual contradiction is a substantive point sufficient to "spell out the ingredients" of cheating. The existence of this grave factual conflict confirms that the question of criminal

culpability and *mens rea* is a triable issue. Judicial interference to quash the proceedings at this premature juncture is therefore unwarranted.

22. Therefore, this court concludes that in a criminal revisional application seeking quashing of proceedings under Section 420 IPC arising from a commercial transaction, the application must be dismissed where the petitioner's defence (e.g., return of goods) is directly contradicted by contemporaneous documentary evidence (e.g., the issuance of a cheque for payment months later). Such a patent factual contradiction confirms that the case is not a *simpliciter* breach of contract, but one where the question of dishonest intention (*mens rea*) is a triable issue that must be adjudicated by the Trial Court, in strict adherence to the ratio laid down in ***Rajesh Bajaj vs State NCT Of Delhi***."
23. Accordingly, the instant Criminal Revisional Application stands dismissed.
24. The interim order, if any, restraining the continuation of the proceedings in Complaint Case No. CN/1830 of 2022, is hereby vacated with immediate effect.
25. The Learned Metropolitan Magistrate, 13th Court, Calcutta, is directed to proceed with the matter expeditiously, affording adequate opportunity to both parties to adduce evidence to substantiate their respective claims.
26. The Learned Magistrate shall afford adequate and timely opportunity to both parties to adduce evidence to substantiate their respective claims, particularly concerning the veracity of the claim of goods return versus the issuance of the subsequent cheque.

27. The parties are directed to appear before the Learned Trial Court on the earliest fixed date or within four weeks from the date of communication of this Order, whichever is sooner.
28. CRAN 2 of 2024 is also disposed of accordingly.
29. There shall be no order as to costs.
30. All consequential Interim order/orders, if any, shall stand vacated.
31. The Trial Court Record (TCR), if any, shall be sent down to the Trial Court, at once.
32. Case diary, if any, be returned forthwith.
33. Urgent Photostat certified copy of this judgment, if applied for, be given to the parties, as expeditiously as possible, upon compliance with the necessary formalities in this regard.

(Uday Kumar, J.)