IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

PRESENT:
THE HON'BLE JUSTICE UDAY KUMAR

CRR 2577 of 2018

Harish Bagla & Ors.
-Vs-
State of West Bengal & Anr.

For the Petitioners	: Mr. Mayuk Mukherjee Mr. Anurag Modi Mr. S.N. Upadhyay Ms. Ankita Sikdar Ms. Jaita Ghosh
For the State	: Mr. Ranabir Roychowdhury Mr. Mainak Gupta
Hearing concluded on	: 07.11.2025
Judgment on	: 05.12.2025

UDAY KUMAR, J.: –

1. This Criminal Revision Application, bearing CRR No. 2577 of 2018, is preferred by the Petitioners, namely Harish Bagla, Archana Bagla, and Anurag Kedia, invoking the inherent and extraordinary jurisdiction vested in this Court by Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.). The Petitioners seek to exercise this Court's salutary power to secure the ends of justice by quashing the entire criminal proceedings arising out of Bowbazar Police Station Case No. 176/17 dated June 9, 2017 (corresponding to G.R. Case No. 630 of 2017), registered primarily under Sections 120B, 406, and 420 of the Indian Penal Code, 1860 (IPC).

2. The foundational premise of the Petitioners' prayer is that the genesis of the dispute lies purely in a commercial transaction, which has been substantially settled between the parties, and that the continued prosecution is nothing but a glaring instance of the abuse of the process of law.
3. The essence of the prosecution's case, as discernible from the First Information Report (FIR), relates to a commercial transaction involving the supply of maize goods. The Complainant alleges a willful default and non-payment of outstanding dues amounting to ₹ 49,31,236/- by the purchasing entities, which are Petitioners' companies. The Complainant sought to imbue this contractual default with a criminal colour by asserting that the goods were supplied based on "false assurances" and an implied "complete faith and trust," which the Petitioners subsequently breached, thereby characterizing the non-payment as a premeditated act of cheating and criminal conspiracy.
4. The Petitioners have consistently contended, both before the Learned Magistrate and before this Court, that the non-payment is merely a long-standing, disputed commercial debt spanning the period from October 2012 to October 2015. They submit that the criminal machinery has been wrongfully and vexatiously invoked solely as an "arm-twisting technique" to recover money, asserting unequivocally that the matter is fundamentally a civil dispute pertaining to outstanding commercial liabilities.
5. Crucially, during the pendency of this Revisional Application, the Petitioners demonstrated unassailable *bona fides* by paying the undisputed portion of the liability amounting to ₹ 9,77,691/-, owed by M/s. Amrit Hatcheries (P) Ltd. to the Complainant. Consequent upon this significant payment, the Opposite Party No. 2 (Complainant) formally filed a solemn

affidavit/application before the Learned Magistrate, explicitly stating that they were "not interested in proceeding with the instant case" against the accused persons. This singular act brings the criminal complaint to an effective, albeit extra-judicial, cessation.

6. The singular and determinative question of law and fact confronting this Court is:

> “Whether, in the factual context of a commercial dispute where the outstanding financial liability has been substantially mitigated/settled and the *de facto* Complainant has formally and unequivocally abandoned their interest in pursuing the prosecution, the continuation of the criminal proceedings amounts to a flagrant and unjustifiable abuse of the process of law, warranting its immediate quashing under the inherent power conferred by Section 482 Cr.P.C.”

6. Mr. Mayukh Mukherjee, Learned Counsel for the Petitioners submitted with considerable force that the proceedings must be quashed *ex debito justitiae* as the dispute is, in its very essence, purely civil in nature, and the criminal process was illegally activated merely for money recovery—a practice consistently and strongly deprecated by the Hon'ble Supreme Court.

7. He stressed that the criminal case inherently lacks the requisite *mens rea*—the dishonest intention at the inception—which is the most vital ingredient for the offence of Cheating (Section 420 IPC), as evidenced by the long history of business transactions and partial payments previously made (amounting to ₹ 15,56,391/-).

8. Furthermore, Mr. Mukherjee argued that the charge under Section 406 IPC (Criminal Breach of Trust) is fundamentally flawed, as the transaction was one of sale, and the necessary prerequisite of 'entrustment' of property is wholly and legally absent.
9. The subsequent conduct of the Complainant—accepting the substantial sum of ₹ 9,77,691/- and formally expressing a lack of interest in the case—is, according to the Petitioners, decisive proof that the criminal law was maliciously invoked for an ulterior motive, which is legally impermissible.
10. The specific defence of Petitioner No. 3, Anurag Kedia, who had resigned from the company on October 14, 2015, further weakens the case against him for any subsequent transactions that form the basis of the complaint.
11. Conversely, Mr. Ranabir Roychowdhury, Learned Counsel appearing for the State fairly submitted before this Court, that the dispute is the financial and contractual in nature.
12. This Court needs to scrupulously examine whether the allegations satisfy the essential ingredients of the criminal offences. The distinction between a breach of contract and the offence of Cheating (Section 420 IPC) is fine but profoundly crucial: the criminal offence mandates that the dishonest intention must have existed *ab initio*, at the very inception of the transaction. The factual narrative, which includes a long-standing business relationship and prior partial payments, renders the allegation of initial fraudulent intent highly improbable, tenuous, and unsustainable. The matter is, on its face, purely a claim for monetary relief arising from an alleged contractual breach.
13. Similarly, the charge under Section 406 IPC is clearly misplaced, as the underlying transaction was one of sale of maize on credit, lacking the

essential criminal element of 'entrustment'. In a contract of sale, title and possession are intended to pass to the buyer; the subsequent failure to pay the full price cannot, by any stretch of imagination, be construed as dishonest misappropriation of the seller's property under Section 406 IPC.

14. The most compelling and decisive factor that tilts the scales of justice is the subsequent conduct of the Complainant. The immediate cessation of the Complainant's interest in the prosecution following the receipt of the payment of ₹ 9,77,691/- unequivocally confirms that the criminal mechanism was invoked for extraneous and illicit purposes, specifically, debt recovery. This Court is bound to put an end to this growing and pervasive practice, which has been strongly deprecated by the Hon'ble Supreme Court in a catena of decisions.

15. The legal mandate is clear as is decided in *State of Haryana v. Bhajan Lal* (AIR 1992 SC 604), which allows the exercise of Section 482 Cr.P.C. where the allegations are "manifestly attended with mala fide" and instituted with an ulterior motive. The present case falls squarely within this stipulated category.

16. Moreover, the judicial wisdom enunciated in *Salib alias Shalu alias Salim v. State of UP* (2023 SCC OnLine SC 947) requires the Court to look "a little more closely" into the "overall circumstances" when the proceedings are alleged to be vexatious and oppressive. The Complainant's subsequent acceptance of payment and formal withdrawal of interest provides the irrefutable material evidence necessary to establish this malicious intent.

17. As emphatically noted in the ruling in *Lalit Chaturvedi v. State of UP* (2024 (2) SCC 690), the criminal process cannot and must not be permitted to be

misused to pressurize an accused into settling a civil liability. To allow the continuance of the prosecution in the face of the Complainant's affidavit would be to endorse such misuse.

18. Upon a meticulous examination of the records, the undisputed facts, and the application of the guiding legal precedents, this Court arrives at the conclusive finding that the proceedings, arising from a long-standing, disputed commercial debt, lack the requisite criminal *mens rea* necessary to sustain the offences under Sections 420 and 406 IPC.
19. The evidence on record suggests a business failure and contractual breach, not a criminal design. The Complainant's acceptance of a substantial payment followed by their explicit withdrawal of interest establishes beyond reasonable doubt that the initiation and continuation of the criminal prosecution is a manifest and intolerable abuse of the process of law. The continuation of the trial under these facts and circumstances would undeniably be a futile judicial exercise and would result in the perpetuation of gross injustice, which this Court cannot countenance.
20. In view of the foregoing analysis and conclusive legal finding, and in order to secure the ends of justice and prevent the manifest abuse of the process of law, this Court passes the following consequential orders:
    i. The Criminal Revisional Application, CRR No. 2577 of 2018, is allowed.
    ii. The entire criminal proceedings arising out of Bowbazar Police Station Case No. 176/17 dated June 9, 2017 (G.R. Case No. 630 of 2017), including all processes and consequential orders passed therein, are hereby quashed and set aside.

iii. There shall be no order as to the cost.

iv. The interim orders, if any, staying the proceedings stand vacated with immediate effect.

v. A certified copy of this judgment and order be immediately forwarded to the Learned Trial Court for compliance and necessary action

(Uday Kumar, J.)