

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

**PRESENT:
THE HON'BLE JUSTICE UDAY KUMAR**

CRR 489 of 2024

**Iltaf Khan
-Vs.-
State of West Bengal & Anr.**

For the Petitioner	: Mr. Muhammad Obaid, Mr. Avimannu Das
For the Opposite Party No.2	: Mr. Dr. Arjun Chowdhury, Mr. Bikash Singha, Ms. Riya Agarwal
For the State	: Mr. Abhijit Sarkar, Mr. Dhiman Sil
Hearing concluded on	: 25.07.2025
Judgment on	: 30.07.2025

Uday Kumar, J.:-

1. This revisional application, preferred by Iltaf Khan (hereinafter referred to as "the Petitioner"), invokes the inherent powers of this Court under Section 528 read with Section 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (provisions *pari materia* with Section 482 read with Section 401 of the Code of Criminal Procedure, 1973), seeks to quash the ongoing criminal proceedings, registered as G.R. Case No. 3313 of 2014, which originated from Bhaktinagar Police Station Case No. 597 of 2024, dated July 5, 2024, under Sections 420 (cheating) and 506

(criminal intimidation) of the Indian Penal Code, 1908, and are presently pending before the Court of the Learned Chief Judicial Magistrate, Jalpaiguri.

2. The Petitioner's core contention is that the entire dispute fundamentally stems from a commercial transaction, thereby rendering it purely civil in nature. His implication, it is contended, constitutes a patent abuse of the legal process, designed primarily to recover a commercial debt under the guise of criminal prosecution.
3. The genesis of the present dispute lies in a commercial transaction dating back to January 13, 2024, when the Opposite Party No. 2, Shahnaz Banu, proprietor of "Build World" (the de facto complainant), supplied goods to the Petitioner's firm, "M.K. PIONEER amounting to Rs. 19,20,920/- (Rupees Nineteen Lakhs Twenty Thousand Nine Hundred and Twenty only)," but Petitioner largely defaulted in payment of the said outstanding amount despite the substantial supply and repeated demands for payment, except partial payment of Rs. 2,00,000/ (Rupees Two Lakhs) on 4th March, 2024 and returning of goods to Opposite Party No.2 – complainant worth Rs. 2,41,975/- (Rupees Two Lakhs Forty-One Thousand Nine Hundred Seventy-Five) on 24th June, 2024. when the complainant demanded the said outstanding amount of Rs. 14,89,245/- (Rupees Fourteen Lakhs Eighty-Nine Thousand Two Hundred Forty-Five), the Petitioner, far from settling the dues, resorted to threats Opposite Party No.2.
4. Following the Petitioner's alleged failure to clear the dues and his purported resort to threats and intimidation, Shahnaz Banu issued a

legal notice on May 10, 2024, demanding the outstanding amount. Subsequently, on July 5, 2024, the complainant lodged a formal complaint with Bhaktinagar Police Station, which led to the registration of FIR No. 597/2024 under Sections 420 and 506 IPC.

5. Subsequent to the registration of FIR, the Petitioner voluntarily surrendered on September 24, 2024, and was duly enlarged on bail. Upon conclusion of the investigation, a charge-sheet (No. 688/2024) was duly filed by the police on September 30, 2024 under Sections 420, 506 of IPC against the petitioner. Finally, on November 14, 2024, the Learned Chief Judicial Magistrate, Jalpaiguri, took cognizance of the offenses, initiating G.R. Case No. 3313 of 2024, which is now sought to be quashed. This continuum of events and the resultant impugned proceeding that stands challenged in the instant revisional application.
6. Mr. Muhammad Obaid, Learned Advocate appearing for the Petitioner, vehemently contended that the very genesis of the existing dispute is intrinsically a business transaction. He submitted with considerable force that the criminal proceedings initiated *qua* the Petitioner constitute a blatant and improper attempt to recover a commercial debt by cloaking a civil dispute with a criminal colour. Mr. Obaid underscored that the quintessential element of dishonest intention (*mens rea*) at the very inception of the transaction, which is indispensable for constituting an offence under Section 420 IPC, is entirely absent in the present case.
7. In support of his contention, Mr. Obaid highlighted the Petitioner's actions of making a part payment and returning certain goods as unequivocal evidence of his intent to fulfil his obligations, thereby

negating any fraudulent design *ab initio*. Furthermore, he alleged that the complainant maliciously suppressed the fact of the returned goods when filing the FIR, suggesting an ulterior motive. Relying upon recent pronouncements of the Hon'ble Supreme Court, *inter alia*, in *Mariam Fasihuddin & Anr. versus State by Aduodi Police Station and Anr.* (2024 SCC OnLine SC 58) and *Ashok Kumar Jain Versus State of Gujarat and Another* (2025 SCC OnLine SC 998), Learned Counsel argued that the machinery of criminal law ought not to be invoked for matters that are, in essence, mere breaches of contract or purely civil disputes. Therefore, he prays for quashing of the entire proceeding based on false and frivolous allegations which amounts to abuse of process of law.

8. Conversely, Mr. Dr. Arjun Chowdhury, Learned Advocate appearing for Opposite Party No. 2, vehemently opposed the quashing of the proceedings. He submitted that the Petitioner's alleged refusal to pay the substantial outstanding amount, coupled with his subsequent refusal to respond to calls and the alleged threats, clearly establish the commission of criminal offences. While acknowledging the civil aspect concerning money recovery, Mr. Chowdhury asserted that the Petitioner's modus operandi, particularly his minimal and belated part payment followed by outright threats when full payment was demanded, strongly reveals an intention to deceive from the very inception of the transaction.
9. He contended that the essential ingredients of Sections 420 and 506 IPC are *prima facie* satisfied, a conclusion which, he submitted, is further buttressed by the filing of a charge-sheet post-investigation. The State,

through its Learned Counsel, supported the charge-sheet, maintaining that sufficient *prima facie* material exists on record to proceed against the Petitioner. Thus, he prayed for dismissal of this revisional application.

10. In view of the facts pleaded and the rival contentions advanced, the pivotal question that mandates determination in this revisional application is framed as follows:

“Whether, considering the entirety of the materials on record and the arguments advanced by the respective parties, this Court, in its extraordinary revisional jurisdiction, ought to interfere with the ongoing criminal proceedings by quashing them in limine, or if, conversely, the available prima facie evidence warrants a full-fledged trial to ascertain the guilt or innocence of the Petitioner.”

11. To address the principal question, it is essential to revisit the statutory provisions under which the Petitioner stands charged. These are Section 420 of the Indian Penal Code, 1908, which defines cheating and dishonestly inducing delivery of property, and Section 506 of the Indian Penal Code, 1908, which deals with punishment for criminal intimidation. For contextual clarity, the relevant provisions are reproduced hereunder:

"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."

"506. Punishment for criminal intimidation. — Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

If threat be to cause death or grievous hurt, etc.— and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or [imprisonment for life], or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both."

- 12.** The power to quash criminal proceedings under Sections 528/442 of the Bharatiya Nagarik Suraksha Sanhita (corresponding to erstwhile Section 482 Cr.P.C.) is an extraordinary jurisdiction, to be exercised sparingly and with utmost circumspection. It is invoked only in rare and exceptional circumstances where the allegations contained in the First Information Report or the subsequent charge-sheet, even if taken at their face value and accepted in their entirety, do not *ex facie* constitute any cognizable offence, or where the criminal proceeding is demonstrably and manifestly absurd, *mala fide*, and instituted with a discernible ulterior motive, such as for wreaking vengeance or to settle private scores. It is not within the purview of this Court's revisional jurisdiction to embark upon a mini-trial or to meticulously weigh the probabilities of conviction at this nascent stage.
- 13.** Let me first address the charge preferred under Section 420 IPC. While it is undeniably trite law that "deception since inception" is the hallmark and indispensable ingredient of the offence of cheating, the

determination of such *mens rea* (dishonest intention) is invariably a complex factual inquiry. In the present case, goods valued at Rs. 19,20,920/- were supplied on January 13, 2024. It is pertinent to note that the Petitioner made a paltry part payment of Rs. 2,00,000/- only on March 4, 2024, representing a significant delay of nearly two months and merely a fraction of the total outstanding amount. While it is acknowledged that some goods were subsequently returned in June 2024, a substantial sum of Rs. 14,89,245/- still remains unpaid.

14. The argument advanced by Learned Counsel for the Petitioner, contending that the fact of partial payment and return of goods inherently negates a dishonest intention *ab initio*, is not always conclusive. It is indeed plausible, as alleged by the complainant, that these actions were nothing more than strategic ploys designed to lull the complainant into a false sense of security, or belated attempts to mitigate liability once directly confronted, rather than genuine indicators of an honest initial intent. The specific timing and the disproportionate quantum of the part payment, when juxtaposed with the entirety of the transaction and the Petitioner's subsequent conduct, could indeed reasonably raise a suspicion of an initial deceptive design. The *modus operandi* alleged—where goods were obtained on an assurance of payment, followed by minimal and inordinately delayed payment, subsequent refusal to clear the dues, and then threats—can certainly be construed by a prudent mind as indicative of a fraudulent scheme that progressively unfolded. Whether this sequence of events conclusively establishes dishonest intention from the very beginning is a

quintessential question of fact that demands detailed evidence, rigorous cross-examination, and a thorough assessment of credibility, all of which fall squarely within the exclusive domain of the Trial Court

15. Furthermore, the contention that the complainant suppressed material facts, such as the return of goods, in her FIR also requires a nuanced view. An FIR, by its very nature, is not intended to be an exhaustive or encyclopaedic document detailing every single aspect of a transaction. While such an omission might indeed constitute a valid point of defence to be agitated during trial, or could potentially influence the final outcome, it does not, *ipso facto*, invalidate the entire criminal proceeding if other *prima facie* elements of the alleged offence are discernible from the record. The Investigating Officer, after considering all available information, including potentially the returned goods, deemed it fit to file a charge-sheet, which signifies that a *prima facie* case was found to proceed.
16. Turning now to the charge under Section 506 IPC (criminal intimidation), the allegation is that the Petitioner resorted to threats when payment was demanded. This is a distinct and independent criminal act. If proven, such threats are not merely an innocuous part of a commercial disagreement but constitute an independent offence in themselves. The very act of employing intimidation to evade a lawful financial obligation, or to deter a legitimate demand for a due debt, manifestly transcends the pale of a simple breach of contract. Whether these threats were sufficiently serious, specific, and intended to cause

genuine alarm to the complainant is, once again, a question of fact that warrants evidence and a rigorous judicial scrutiny at the stage of trial.

17. It is a settled principle of criminal jurisprudence that the mere existence of a civil remedy does not, in any manner, operate as a bar to the initiation or continuation of criminal proceedings if the facts also disclose the commission of a cognizable offence. The Hon'ble Supreme Court, in *Lalita Kumari v. Government of U.P.*, (2014) 2 SCC 1, unequivocally reiterated the mandatory nature of registering FIRs where cognizable offences are disclosed. While judicial pronouncements like *Mariam Fasihuddin and Ashok Kumar Jain* correctly emphasize the critical distinction between a purely civil wrong and a criminal offence, they equally underscore the imperative that if the essential ingredients of a criminal offence are *prima facie* made out from the facts and material on record, criminal proceedings cannot be quashed merely because a civil dispute also co-exists between the parties. In the present case, the narrative presented by the complainant, coupled with and supported by the charge-sheet, provides a *prima facie* basis to infer the essential elements of cheating and criminal intimidation. This squarely distinguishes the present case from instances of pure and simple breach of contract *sans* any dishonest intent *ab initio*.

18. To quash the criminal proceedings at this nascent stage, based solely on the Petitioner's contentions, would amount to prematurely stifling a legitimate prosecution where *prima facie* materials indicate the commission of cognizable offences. This Court, in exercising its limited revisional jurisdiction, must necessarily exercise judicial restraint and

permit the Learned Trial Court to thoroughly examine the totality of the evidence, assess the credibility of witnesses, and, crucially, determine the presence or absence of criminal intent. The disputed questions of fact pertaining to the Petitioner's *mens rea* at the inception of the transaction and the veracity of the intimidation allegations are best determined by the Learned Trial Court after a full-fledged trial, where the comprehensive factual matrix can be properly established.

- 19.** In view of the aforesaid detailed observations and findings, having meticulously considered the factual matrix, the rival submissions of the learned counsels, and the relevant legal principles, I am firmly convinced that the material on record does not present a case warranting the exercise of the extraordinary power of quashing criminal proceedings at this stage. The allegations, supported by the charge-sheet, *prima facie* disclose the commission of offences punishable under Sections 420 and 506 of the Indian Penal Code, 1908, which undoubtedly require comprehensive adjudication by the Learned Trial Court.
- 20.** Consequently, this revisional application, being CRR 489 of 2024, is found to be devoid of merit and, therefore, deserves to be dismissed.
- 21.** Accordingly, the present revisional application being CRR 489 of 2024 stands dismissed.
- 22.** There shall be no order as to costs.
- 23.** The interim order or orders, if any, granted earlier, stand vacated.
- 24.** The Trial Court Records (TCR), if any, shall be sent down to the Learned Trial Court forthwith.
- 25.** The Case Diary, if any, be returned forthwith.

- 26.** Let a copy of this judgment be sent to the learned court below forthwith for necessary information and compliance.
- 27.** Urgent Photostat certified copy of this order, if applied for, be given to the parties, as expeditiously as possible, upon compliance with the necessary formalities in this regard.

(Uday Kumar, J.)