IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1637 OF 2024

1. VS Fibres Pvt Ltd.

2. Pankaj Bhatia
Age : 41 yrs, occ : business
R/o Puran Parkash Bhatia,
E F – 37, Ashiana Garden,
Bhiwandi, Alwar,
Rajasthan

3. Sumit Uthra
Age : 53 yrs, occ : business
R/o Sant Lal,House No.277,
Model Tower, Hansi, Hisar,
Harayana.

4. Rajeev Kumar
Age : 60 yrs, occ : business
Having Office at Shop No.37,
Ground Floor, Tardeo A/C
Market, Tardeo Road, Near
Panna Circle, Mumbai ... Petitioners

Versus

1. The State of Maharashtra
Through Police Inspector,
Pundliknagar Police Station,
Chhatrapati Sambhajinagar

2. Shailendra Rajesh Singh
Age : 32 yrs, occ : service
R/o F. No. C-1, 402, Pride
Phoenix, Near Mini Ghati
Hospital, Chikalthana,
Chhatrapati Sambhajinagar ... Respondents

...

Mr. Ajinkya Kale, Advocate for the petitioners on behalf of Talekar and Associates.
Mr. A.V. Lavte, A.P.P. for respondent No.1.
Mr. Vishal Bagdiya, Advocate for respondent No.2.

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CORAM : **SANDIPKUMAR C. MORE AND MEHROZ K. PATHAN, JJ.**

Judgment reserved on : 11.09.2025
Judgment pronounced on : 27.11.2025

Judgment (Per Sandipkumar C. More, J.) :

1. Rule. Rule made returnable forthwith. By consent of learned counsel for the rival parties, heard finally at admission stage.

2. Under the present petition, the petitioners, by invoking Article 226 of the Constitution of India, have requested for quashment and setting aside of F.I.R. No. 283 of 2024 dated 23.07.2024 registered with Pundliknagar Police Station, Chhatrapati Sambhajinagar for the offences punishable under Sections 406, 420 read with Section 34 of the Indian Penal Code (for short, “I.P.C.”).

3. As per the aforesaid FIR, respondent No.2, who is the Accountant of Manjeet Cotton Pvt. Ltd and Manjeet Global Pvt. Ltd., has alleged that their company deals in the business of preparation of yarn from cotton which is used as raw material for preparation of clothes. The raw material so produced is supplied to cloth mills in the country directly or with the help of agent. He has contended that in the year

2023 his company supplied yarn material to petitioner No.1-company of whom petitioner Nos.2 to 4 are the Directors. The said dealing was done through a broker company namely Shubham Marketing. The rate for the yarn was agreed to Rs. 204/-, 190/- and 195/- per Kilogram respectively. Thereafter the broker company prepared written sale contract on 28.06.2023 between petitioner No.1/company and the company of respondent No.2. In all, raw material of Rs. 31,29,413/- was to be sold as per the said contract. It was agreed that on receipt of the said raw material, the petitioners would immediately pay the cost to the company of respondent No.2. However, even after receiving the raw material of aforesaid amount, the petitioners did not pay the invoice amount. When they enquired with Director Rajeevkumar of broker company i.e. Shubham Marketing, he intimated that the supplied material was sold by the petitioners to K.G. Denim Company, Tamilnadu, but that company intimated that the said supplied material was of substandard quality. The company of respondent No.2 had even sent Mr. Murlidharan Reddiyar of Quality Control Department to K.G. Denim Company, Tamilnadu on 20.07.2023 for verifying the aforesaid fact. However, one Yurani Madam of K.G. Denim Company had disclosed to Murlidharan that their company had already prepared cloth after processing the supplied material. Then the company of respondent No.2, from time to time, requested the petitioners to pay the amount of Rs. 31,29,413/-. But they did not pay the amount even after getting the same from K.G. Denim Company and hence cheated the company of respondent No.2 by committing criminal breach of trust.

4. Learned counsel for the petitioners submits that the raw material supplied by the company of respondent No.2 was in fact of substandard quality, and therefore, when it was supplied to K.G. Denim Company, Tamilnadu by the petitioners, they refused to make the payment and withheld huge amount. He pointed out that there was written contract between the parties and accordingly for the breach of contract, civil remedy is available to the company of respondent No.2. He pointed out that there are so many judgments of the Hon'ble Apex Court wherein it is clearly observed that charge under Sections 406 and 420 of I.P.C. cannot go hand in hand, and therefore, the offence under these two sections cannot be established at one point of time. He pointed out that there was earlier transaction between the petitioner company as well as company of respondent No.2 in the past, and therefore, suit for account would be the proper

remedy to settle this dispute. According to him, the company of respondent No.2 is giving criminal colour to the civil proceeding. Thus, he concluded that no ingredients, either for the offence under Section 406 or under Section 420 of I.P.C. are involved in this matter. As such, he prayed for quashing of aforesaid F.I.R. He also relied on following judgments :-

(i) ***Delhi Race Club (1940) Ltd. And Others Vs. State of Uttar Pradesh and Another [2024 SCC OnLine SC 2248]***

(ii) ***Hon'ble Apex Court in the case of M/s. Shikhar Chemicals Vs. The State of Uttar Pradesh & Another*** [***Special Leave to Appeal (CRL.)No. 11445 of 2025]***

(iii) ***Sushil Sethi And Another Vs. State of Arunachal Pradesh And Others [(2020) 3 Supreme Court Cases 240]***

(iv) ***Hon'ble Apex Court in the case of Pradeep Kumar Kesarwani Vs. The State of Uttar Pradesh & Another [Criminal Appeal No. 3831 of 2025 @ Special Leave Petition (Crl.) No. 11642 of 2019***

5. On the contrary, learned A.P.P. vehemently argued that the petitioner Company has definitely breached the condition of written contract and investigation of the present offence is still in progress. He also relied on the police papers for the purpose of bringing on record the current status of

investigation.

6. On the other hand, learned counsel for respondent No.2 vehemently argued by opposing the submissions made on behalf of the petitioners, that there were business transactions between the petitioner company and the company of respondent No.2, but there were no dues in respect of earlier transactions. According to him, the present matter involves only a dispute in respect of current transaction as per the contract in writing. He pointed out that the petitioners had in fact cheated the company of respondent No.2 by mixing the raw material obtained from other various companies while supplying the same to K.G. Denim Company, Tamilnadu, and therefore, the material supplied by the company of respondent No.2 was not of substandard quality, but the material which was found of substandard quality, must have been supplied by the other companies to the petitioners. Therefore, he submits that whatever contentions are in the F.I.R. are required to be investigated with a view to ascertain whether any cheating is done by the petitioners for refusing the payment of the company of respondent No.2.

7. Admittedly, transaction between the petitioners and the company of respondent No.2 in respect of supply of raw material i.e. yarn of Rs. 31,29,413/- is not in dispute. It appears from the material on record that K.G. Denim Company, Tamilnadu to whom the said raw material was supplied, had in fact found the supplied material of substandard quality and hence withheld the payment of petitioner company. On the contrary, the company of respondent No.2 claims that the petitioners had in fact mixed the yarn of substandard quality obtained from other companies alongwith the raw material supplied by their company, and therefore, K.G. Denim Company must have issued credit note for the substandard raw material obtained from other companies. Learned counsel for the petitioners heavily relied on the following judgments.

(i) ***Delhi Race Club (1940) Ltd & ors vsa State of Uttar Pradesh and another; 2024 SCC OnLine SC 2248***

(ii) ***Judgment of the Apex Court in Petition for Special Leave to Appeal (Cri.) No. 11445 of 2025 between M/s Shikhar Chemicals vs State of Uttar Pradesh***

(iii) ***Sushil Sethi and anotehr vs State of Arunachal Pradesh and others; (2020) 3 SCC 240***

(iv) ***Judgment of Apex Court in the case of Pradeep Kumar***

Kesarwani vs State of Uttar Pradesh (Criminal Appeal No. 3831 of 2025) dated 02.09.2025.

By placing reliance on the Judgment in the case of ***Delhi Race Club*** (supra), the learned counsel for the petitioners submitted that offences punishable under Sections 406 and 420 of I.P.C. cannot go hand in hand and there can be either offence under Section 406 or under Section 420 of I.P.C. He also relied on the said judgment wherein it is observed that the ingredients of Sections 406 and 420 of I.P.C. were not established. However, it is significant to note that whether such ingredients are involved or not, is to be ascertained from the facts of each case. Moreover, sum and substance of remaining judgments relied by the petitioners is that, to quash F.I.R. there must be ingredients of charges levelled against the accused and that when the cheating is alleged in supply of substandard material, criminal proceedings are not maintainable. But if there is liability arising out of contract, a civil suit is required. In short, learned counsel for the petitioners submits that the company of respondent No.2 is giving criminal colour to the dispute having civil nature.

8. In the instant case, the company of respondent No.2 since beginning is claiming that the petitioners

fraudulently added substandard raw material which they had obtained from other companies, in the consignment supplied to K.G. Denim Company, Tamilnadu wherein raw material from the company of respondent No.2 was also included. For that purpose learned counsel for respondent No.2 pointed out the invoices and necessary documents mentioning the quantity of raw material sent to the petitioners under the invoices mentioned in the petition and actual of raw material sent by petitioner No.1/company to K.G. Denim Company, and submitted that there was addition of certain raw material which was not in fact supplied by the company of respondent No.2. Further, on going through the police papers, it appears that the investigation of the aforesaid F.I.R. is still going on and it is revealed that one Yurani Madam from K.G. Denim Company had also disclosed to the representative of the company of respondent No.2 that whatever raw material was supplied by the petitioners to them, was processed for preparing finished products. Under such circumstances, it is to be investigated as to how much raw material was supplied by the company of respondent No.2 to the petitioners and in turn how much additional material was supplied by the petitioners to K.G. Denim Company including the raw material of the company of respondent No.2 and that can be ascertained only on completion of investigation.

9. It is extremely important to note that the Hon'ble Apex Court in the case of ***Kathyayini vs Siddharth P.S.*** reported in ***(2025) SCC Online SC 1428***, has observed that no bar exists against prosecution during pendency of civil suit, if the offences punishable under criminal law are made out against the parties to the civil suit. Further, in the case of ***Pratibha Rani vs Suraj Kumar*** reported in ***AIR 1985 Supreme Court 628***, it has been held that there are a large number of cases where criminal law and civil law run side by side, and therefore, both can co-exists considering the nature of dispute between the parties.

10. Thus, on going through the material on record, it is clearly evident that respondent No.2 has alleged that the petitioners cheated them by not making the payment, even after selling their material to K.G. Denim Company, Tamilnadu who had already used the material for preparing finished product. Therefore, in the light of the observations in the judgments relied on by the learned counsel for respondent No.2, it is necessary to determine whether the ingredients of the offences alleged, are involved, for which the investigation is required. Therefore, at this juncture, no case

is made out by the petitioners for quashing the F.I.R. by exercising the power under Section 482 of the Code of Criminal Procedure. Under such circumstances, we are not inclined to grant any relief as claimed. Accordingly, the petition is dismissed and rule stands discharged.

(MEHROZ K. PATHAN)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE

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