

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.1890 OF 2025**

Birender Rawat	...	Petitioner
versus		
State of Maharashtra and Ors.	...	Respondents

Mr. Diptendu Bose with Mr. Shubham Patil, for Petitioner.
Mrs. R.S.Tendulkar, APP for State.

CORAM: N.J.JAMADAR, J.

DATE : 4 DECEMBER 2025

P.C.

1. Heard the learned Counsel for the Petitioner.
2. The challenge in this Petition is to an order dated 21 February 2025, passed by the learned Additional Sessions Judge, Panvel, whereby the revision application preferred by Respondent Nos.2 to 6 against an order of issue of process for the offences punishable under Sections 420, 406, 409 read with 34 of the Indian Penal Code, 1860, came to be allowed by setting aside the said order.
3. Learned Counsel for the Petitioner submitted that in the complaint, the Petitioner had made an allegation that, the Respondents had illegally allotted parking space to Mr. Ashish Singh by accepting a sum of Rs.10 Lakhs in cash. Learned Magistrate has issued process against Respondent Nos.2 to 6 by taking into account those allegations. Hence, the learned Additional Sessions Judge was in error in setting aside the said order.

4. I do not find any substance in the submissions on behalf of the Petitioner. Learned Sessions Judge has correctly exercised the revisional jurisdiction as the material on record clearly indicated that the parking space was allotted upon payment of a sum of Rs.5 Lakhs, which was eventually credited to the account of the society. The invoice and receipt dated 16 April 2022 evidence the said fact.

5. A bald allegation that, in addition to the amount of Rs.5 Lakhs, the receipt of which is evidenced by documents, the office bearers have accepted a sum of Rs.10 Lakhs for the said allotment, without anything more, could not have been the basis for making the office bearers face the prosecution for the offences punishable under Sections 420, 406 and 409 of IPC. Neither a case of deceit coupled with injury; so as to constitute cheating, nor dishonest misappropriation or conversion of property entrusted with the accused; so as to constitute criminal breach of trust is, prima facie, made out. It is well settled that, ordinarily, the same set of facts may not give rise to offences of cheating and criminal breach of trust, simultaneously.

6. Learned Additional Sessions Judge has rightly corrected the error which the learned Magistrate had committed. Hence, no interference is warranted in exercise of writ jurisdiction.

7. The Writ Petition, thus, stands dismissed.

(N.J.JAMADAR, J.)