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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH  
(133)

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Reserved on:22.09.2025

Date of Pronouncement:24.09.2025

Sunil Kumar

..... Petitioner

V/s

State of Punjab and anr.

...Respondents

**CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. Naveen Kashyap, Advocate,  
for the petitioner.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

Mr. Bhupinder Gupta, Advocate,  
for the complainant-respondent No.2.

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**JASJIT SINGH BEDI, J. (Oral)**

The prayer in the present petition under Section 528 of BNSS is for quashing of FIR No.31 dated 23.02.2025 (Annexure P-1) under Sections 316(4) and 318(2) of BNS Act, 2023 registered at Police Station Division No.6, Police Commissionerate, District Jalandhar and all other consequential proceedings arising therefrom.

2. The allegations in brief are that the complainant-respondent No.2 contacted the petitioner to get hydraulic pumps repaired. An amount of Rs.3,16,240/- was paid by the complainant-respondent No.2 towards the repair of the pumps but the same were not repaired in a proper manner. On seeking a refund due to the non-repair of the pump, the petitioner refused to

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do so thereby embezzling/misappropriating the amount. The copy of the FIR is attached as Annexure P-1 to the petition.

3. The learned counsel for the petitioner contends that the allegations levelled in the FIR are baseless. There is a delay of more than 07 months in the registration of the same. In fact, the pump was repaired and delivered to the complainant-firm to its satisfaction. As it malfunctioned, again the complainant sent the said pumps for repair. It was again repaired and returned back to the firm of the complainant after being checked by one Satyam Vajpayee, an employee of the complainant-firm. Photographs and videography of the pump was also done. After 03.08.2024, when the payment was made to the petitioner, the complainant-respondent No.2 never made any complaint regarding functioning and working of the pump. On being satisfied by the services rendered, another pump was given to the firm of the petitioner for repairing the same. It was repaired and handed over to the employee of the complainant-firm on 25.10.2024 against proper checking and invoice. However, the FIR came to be registered on 23.02.2025 i.e. four months after the second pump was returned back after repair on 25.10.2024. Even otherwise, the allegations would amount to a consumer dispute a best for which the appropriate remedy would be to approach the Consumer Forum and not get registered the instant FIR. He, therefore, prays that the impugned FIR No.31 dated 23.02.2025 under Sections 316(4) and 318(2) of BNS Act, 2023 registered at Police Station Division No.6, Police Commissionerate, District Jalandhar (Annexure P-1) and all other consequential proceedings arising therefrom be quashed.

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4. The learned counsel for the State and the counsel for the complainant, on the other hand, contend that despite the payment of a huge amount, both the pumps though subjected to repair, were never properly repaired at the instance of the firm of the petitioner. On a refund being sought, the petitioner refused to do the needful and therefore, the offence of embezzlement/misappropriation stands established. They, therefore, pray that the present petition is liable to be dismissed.

5. I have heard the learned counsel for the parties.

6. In '***P. Balajee versus The State of Jharkhand and ors. 2023(4) JCR 51***', the Jharkhand High Court held as under:-

*3. Mr. Anil Kumar Sinha, the learned Senior counsel appearing for the petitioner submits that the first accused person is a private limited Indian company that manufactures and sells several models of mobile phone handsets in various cities of India under the brand name of NOKIA. The second accused person is the managing director of the first accused company. He submits that the complainant had purchased NOKIA E6-00 through local dealer. On purchase of the same on 16.8.2012 from authorized show room of the said company-accused no.4 in the complaint petition on payment of Rs.17,616/- the complainant on his own purchased 32GB card at Kolkata as aforesaid and the said card was not read by the said mobile handset. The complainant visited NOKIA care centre at Ranchi and it was pointed out that the same was defective and on these background the FIR was registered. However, the company has further replaced the mobile handset in favour of the complainant. He submits that on these background the FIR has been registered and till date, according to the status report,*

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*charge sheet has not been submitted and as such, the criminal proceeding will amount to abuse of process of law.*

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*6. In view of the above submission of the learned counsel for the parties, the Court has gone through the contents of the FIR and finds that admittedly for not working of the said mobile handset the present case has been filed. In paragraph no.8 of the complaint petition, it has been stated that the complainant went to the nearest Nokia care centre in Ranchi namely M/s Shreya Services the third accused person whose technicians there examined the handset and told the complainant that said handset was not defective but since 32 GBmicroSC card of Sandisk company was defective, it was not being read/supported by said handset. In paragraph no.12 and 13 the complainant itself admitted that the mobile handset was replaced twice which clearly suggest that there is no intention of cheating from very beginning and in the case in hand the company has already replaced the mobile handset twice inspite of the fact that there was no defect in the mobile set. Further it is well known that if any article is being sold, there are parameters of guarantee/ warrantee and if there is any deficiency in service, for that remedy is to move before the appropriate District Consumer Grievance Redressal Forum and not to file a criminal case. The Court finds that in these background to allow to continue the proceeding further will amount to abuse of the process of law.*

*7. Accordingly, entire criminal proceeding including the F.I.R arising out of Lalpur P.S.Case No.215 of 2013 dated 19.08.2013, G.R.No.4598 of 2013, pending in the court of learned Judicial Magistrate, Ranchi is quashed.*



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7. In '***A. Fazlur Rahman versus State and Ors. (Crl.O.P. No.20736 of 2019), S. Manikandan @ Mani versus State and Ors. (Crl.O.P. No.21029 of 2019) and T. Mahendran versus State and Ors. (Crl.O.P. No.21030 of 2019) all decided on 26.06.2023***', the Madras High Court held as under:-

*6. This Court, on perusal of the impugned FIR and on hearing the submissions made by the learned counsels on either side and the learned Additional Public Prosecutor, finds that the allegations primarily are that the petitioners had independently supplied two products to the second respondent. Mr.A.Fazlur Rahman had allegedly supplied the Digital Locker System and Auto Motion Switches and installed it at the second respondent's Villa. Mr.S.Manikandan and Mr.T.Mahendran are said to have installed CCTV cameras. The allegation is that within few months after installation, the products were damaged and could not be put to effective use. That apart, the petitioners are said to have retained a secret password, thereby, endangering the privacy of the second respondent. This Court finds from the records that the petitioners had installed the products at various stages from 2016 to 2018. The allegation, even if it is accepted to be true, only discloses a dispute in the contract entered into between the petitioners and the second respondent. In order to attract the offence under Section 415 IPC, there must be a deception at the inception. The allegations in the FIR do not suggest that there was any deception at the inception to attract the offence of Section 420 IPC. Further, this Court is of the view that the respondent Police cannot investigate a complaint of this nature, which in effect, states that the goods supplied were defective in nature. This involves the assessment of technical details and ought to have been*

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*addressed only before the appropriate forums, such as the consumer disputes redressal forum, which are meant to resolve such issues. The technical aspects cannot be decided by the first respondent, and the criminal law cannot be strained to permit such complaints merely because it gives shortcut solutions sometimes. Admittedly, in this case, the products were installed as per the contract between the parties. The only grievance is that damages occurred after some time, and the product did not function properly. Thus, it would be a case of a supply of goods which were found to be defective later. It is pertinent to point out that the complaint was lodged one year after the installation was completed. The second respondent who is aggrieved by the alleged supply of defective goods by the petitioners, ought to have resorted to the other remedies which are available in law. By-passing those remedies and resorting to Criminal Proceedings without satisfying the ingredients of the offence alleged would amount to an abuse of the process of law. There cannot be any dispute with the proposition of law that criminal Proceedings cannot be quashed merely because the allegations appear to be in civil in nature as held in the Judgments relied upon by the learned counsel for the second respondent. However, in the instant case, it is not a case of deception at the inception to attract cheating. The allegations, at best, only suggest a case of breach of contract.*

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*10. The Hon'ble Supreme Court in Neeharika Infrastructure Pvt., Ltd. v. State of Maharashtra and others reported in 2021 SCCOnlineSC 315 while summarising the principles relating to quashing of complaints had held as follows :*

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"80... (iii) It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on;

(x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the state of investigation of offences."

*11. The instant FIR is liable to be quashed based on the dictum of the Hon'ble Supreme Court referred to above, as the offences are not made out, and non-interference by this Court would result in the miscarriage of justice. Hence, this impugned FIR is quashed. Criminal Original Petitions are allowed. Consequently, the connected Miscellaneous Petitions are closed.*

8. Coming back to the facts and circumstances of the instant case, admittedly, firstly, one pump was given for repair and thereafter, the second one was also given for repairs. An amount of Rs.3,16,240/- has been received by the petitioner towards the repairs. Assuming that the pumps had not been repaired to the satisfaction of the respondent No.2-complainant, it lay in the domain of the Consumer Forum to have examined the case of the respondent No.2-complainant and give him adequate compensation, if so warranted for the deficiency in service. By no stretch of imagination can it be said that there has been a breach of trust or embezzlement/misappropriation of the amount of Rs.3,16,240/- paid for repairing the two pumps.

9. Apparently, the registration of the instant FIR is nothing but an abuse of the process of the Court. Therefore, the impugned FIR No.31

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dated 23.02.2025 (Annexure P-1) under Sections 316(4) and 318(2) of BNS Act, 2023 registered at Police Station Division No.6, Police Commissionerate, District Jalandhar and all other consequential proceedings arising therefrom stand quashed qua the petitioner only.

10. The present petition is disposed of in the above terms.

11. The pending application(s), if any, shall stand disposed of accordingly.

**September 24, 2025**  
sukhpreet

**( JASJIT SINGH BEDI)**  
**JUDGE**

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|---------------------------|----------|
| Whether speaking/reasoned | : Yes/No |
| Whether reportable        | : Yes/No |