



2025:DHC:10403

**IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment reserved on 25.09.2025

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Judgment delivered on:24.11.2025

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W.P.(CRL) 2125/2022, CRL.M.A. 18324/2022 & CRL.M.A. 12883/2023**M/S WHITEFIELDS OVERSEAS
LTD. & ORS.**

.....Petitioners

versus

STATE OF NCT OF DELHI & ORS.Respondents**Advocates who appeared in this case:**

For the petitioners : Mr. Anoop Prakash Awasthi, Mr. Shubham Dubey & Ms. Shruti Vaibhav, Advs.

For the Respondents : Mr. Sanjeev Bhandari, ASC for the State with Mr. Arjit Sharma & Ms. Sakshi Jha, Advs.

SI Sandeep Singh, PS- Lahori Gate
Mr. Pranaya Goel (through VC), Mr. Dharav Shah, Mr. Suyash Goverdhan & Mr. Naman Agarwal, Advs. for R2**CORAM****HON'BLE MR JUSTICE AMIT MAHAJAN****JUDGMENT**

1. The present petition is filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal



Procedure, 1973 ('CrPC') challenging the order dated 19.07.2022 (hereafter '**impugned order**'), passed by the learned Additional Sessions Judge ('ASJ'), Central District, Tis Hazari Courts, Delhi in CR No. 110/2022.

2. By the impugned order, the learned ASJ dismissed the revision petition filed by the petitioners against the summoning order dated 09.12.2021 (hereafter '**impugned summoning order**'), in Case No. 1551/2021, whereby the petitioners were summoned for the offences under Sections 420/468/471/120B of the Indian Penal Code, 1860 ('IPC'). The petitioners are seeking setting aside of the said summoning order as well.

3. The brief facts of the case are as follows:

3.1. A complaint was filed by Respondent No.2 company against the petitioners under Section 200 of the CrPC. It is the case of the complainant company that it has been supplying rice to Petitioner No.1 since 2013-2014. As per the instructions given by Petitioner No.2 (Promoter and Director of Petitioner No.1) and Petitioner No. 3 (Managing Director of Petitioner No.1) from time to time, the complainant company used to deliver the consignments to Petitioner No.1 from time to time at the address where Petitioner Nos. 7 and 8 as well as Respondent No. 9 (warehouse in-charges of Petitioner No.1) used to receive the consignments and issue receipts. After getting information about the quality and quantity of rice, Petitioner No.1 used to issue cheques towards part-payment. Allegedly, Petitioner



No.3 assured that the dues would be strictly paid on time after allowing 42 days credit period and a penal interest @18% would be paid in case of delay. Various consignments were supplied in this manner.

3.2. When Petitioner No.3 assured that the payment would be made on time and the arrears used to be cleared as per previous practice, the complainant similarly fulfilled the order for Financial Year 2020-2021 on the basis of the said assurance. The last delivery was made on 03.10.2020. Allegedly, a sum of Rs. 2,09,69,153.18 remained unpaid for Financial Year 2019-2020, even after the complainant made requests for payment of the amount. The total arrears, including the deliveries made till 03.10.2020 and interest, was alleged to be around Rs. 4,95,25,046.38/-. Certain payments were made to the accused petitioners to the tune of Rs. 3,00,71,537/-, however, a balance of Rs. 1,94,53,509/- remained outstanding on 31.12.2020. The penal interest is allegedly accruing as well till payment of dues.

3.3. It is alleged that the accused persons also sent certain WhatsApp texts on 16.10.2020 showing cheques towards payment of arrears, but did not send the physical cheques. Certain cheques were issued towards part-liability, however, the same were also dishonoured, which led to initiation of proceedings under Negotiable Instruments Act, 1881.

3.4. The counsel for the accused sent a letter dated 04.01.2021 and made allegations in respect of the quantity and quality of the supplied



rice, which were denied by the complainant. Allegedly, by way of the said letter, the accused also requested for handing over of some cheques issued towards part liability. It is alleged that such false allegations were made to avoid payment. Allegedly, small payments of 5-6 lakhs were made to gain faith as well.

3.5. It is alleged that the accused further deceived the complainant to effect supply on the false pretext that it has transferred some payment to the complainant by giving details of UTR on WhatsApp on 30.12.2020, however, no such amount was ever credited in the account of the complainant.

3.6. By the impugned summoning order, the accused persons (including, the petitioners and Respondent No.3) were summoned for the offences under Sections 420/468/471/120B of the IPC. The relevant portion of the said order is as under:

“Complainant had supplied rice to the accused no. 1 company through other accused who were in-charge of the company and were liable to make payment for the same. Cheques given by the accused are dishonoured. It prima-facie shows the intention to cheat the complainant. Further fake UPIs were shown to the complainant to assure him of payment. There are sufficient material on record to summon all the accused for offence u/s 420/468/471/120B IPC.”

3.7. Aggrieved by the dismissal of the revision petition against the said order, the petitioner preferred the present petition.

4. The learned counsel for the petitioner submitted that the impugned summoning order has been upheld by the learned ASJ even



though the same does not reflect any application of mind as to whether the ingredients of the alleged offences are made out.

5. He submitted that even if the case of the complainant is taken at the highest, no ground is made out to set criminal law in motion as the dispute is essentially commercial in nature, and even the complainant has admitted that the parties had long standing business relations and they had prior disputes in relation to quality and quantity of rice. He submitted that admittedly, part payment of the dues was made which shows that there was no intention to cheat the complainant. He further submitted that no case of forgery is made out either.

6. He submitted that except for overarching bald averments, the specific role of the petitioners has also not been laid out in the complaint.

7. He further submitted that the learned Trial Court had erroneously issued summons to the petitioners without appreciating that no enquiry as envisaged under Section 202 of the CrPC was carried out

8. *Per contra*, the learned counsel for Respondent No.2 asserted that the Courts below have duly appreciated the facts and there is no error in the impugned orders.

9. He submitted that as appreciated by the learned ASJ, the dishonour of the cheques as well as showing fake UPIs to give false



assurance of payments makes out a *prima facie* case for proceeding against the petitioners.

ANALYSIS

10. At the outset, it is relevant to note that the petitioners have approached this Court after exhausting their remedy of pursuing a revision petition. , it is relevant to note that while it is settled law that a second revision cannot be filed in terms of the bar under Section 397 of the CrPC, the inherent power of this Court under Section 482 of the CrPC has a wide ambit and can be exercised in the interest of justice. It is settled law that the power under Section 482 of the CrPC is to be exercised cautiously and sparingly, especially when Sessions Judge has already exercised revisional power under Section 397 of the CrPC.

11. The Hon'ble Apex Court, in the case of ***Krishnan v. Krishnaveni*** : (1997) 4 SCC 241, had observed as under:

“8. The object of Section 483 and the purpose behind conferring the revisional power under Section 397 read with Section 401, upon the High Court is to invest continuous supervisory jurisdiction so as to prevent miscarriage of justice or to correct irregularity of the procedure or to mete out justice. In addition, the inherent power of the High Court is preserved by Section 482. The power of the High Court, therefore, is very wide. However, the High Court must exercise such power sparingly and cautiously when the Sessions Judge has simultaneously exercised revisional power under Section 397(1). However, when the High Court notices that there has been failure of justice or misuse of judicial mechanism or procedure, sentence or order is not correct, it is but the salutary duty of the High Court to prevent the abuse of the process or miscarriage of justice or to correct irregularities/incorrectness committed by inferior criminal court in its juridical process or illegality of sentence or order.”

(emphasis supplied)



12. The petitioners have invoked the inherent as well as writ jurisdiction of this Court for quashing of the summons issued against them in the complaint filed by Respondent No.2, which would essentially have the effect of quashing the complaint preferred by the complainant company. It is well-settled that while this Court needs to exercise restraint in stifling prosecution, however, inherent or writ jurisdiction can be exercised if it is found that the continuance of criminal proceedings would be a clear abuse of process of law.

13. In the case of ***State of Haryana v. Bhajan Lal : 1992 Supp (1) SCC 335***, the Hon'ble Apex Court had illustrated the category of cases where the Court may exercise its extraordinary power under Article 226 of Constitution of India or inherent jurisdiction to quash the proceedings. The relevant portion of the judgment is reproduced hereunder:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

*(1) **Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.***

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a



cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

(emphasis supplied)

14. As opined in the aforesaid cases and noted above, the test is whether the uncontroverted allegations in the FIR *prima facie* disclose commission of a cognizable offence. However, the Court ought to look into the complaint with care and a little more closely in case it finds that the proceedings are manifestly frivolous or vexatious or are instituted with the ulterior motive of wreaking vengeance. In such circumstances, the Court can look into the attending circumstances emerging from the record of the case and can read between the lines.

15. It is the case of the complainant company that it was engaged



with the petitioner company in the business of rice. Allegedly, the accused persons hatched a conspiracy and proceeded to cheat the complainant company by inducing delivery of consignments on the false assurance of payments. The complainant adhered to the requests of further supply, despite which, a huge amount remained payable along with penal interest. Allegedly, the accused also gave cheques towards part payment of liability, which were dishonored, and falsely asserted that some payment had been transferred to the complainant company, however, no such payment was made. Some WhatsApp Chats were also sent showing cheques which were to be handed over for payment of arrears, but such cheques were also not handed over physically.

16. It is argued on behalf of the petitioners that the impugned summoning order does not reflect any cogent reasoning for issuance of summons and suffers from non-application of mind *qua* ingredients of the alleged offences.

17. It is well-settled that issuance of summons is a serious issue and it is thus imperative that the summoning order shows due application of mind and examination of the facts of the case as well as the evidence on record. In the case of ***Pepsi Foods Ltd. and Another v. Special Judicial Magistrate and Others*** : (1998) 5 SCC 749, the Hon'ble Apex Court had observed as under:

“28. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate



summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. The Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.

29. No doubt the Magistrate can discharge the accused at any stage of the trial if he considers the charge to be groundless, but that does not mean that the accused cannot approach the High Court under Section 482 of the Code or Article 227 of the Constitution to have the proceeding quashed against him when the complaint does not make out any case against him and still he must undergo the agony of a criminal trial....”

(emphasis supplied)

18. The Magistrate is thus required to satisfy himself as to whether there is “sufficient ground for proceeding” against the accused by carefully scrutinising the material on record as well as the nature of allegations and material adduced in support thereof. While the Magistrate is not required to give detailed reasons, the order of issuance of process cannot be treated as an empty formality and a person ought not to be made suffer merely because a complaint is filed [Ref. *Lalankumar Singh v. State of Maharashtra* : 2022 SCC OnLine SC 1383].

19. In the present case, the learned Trial Court has inferred the intention to cheat the complainant from the fact that the cheques, which were given by the accused for payment of rice consignments,



were dishonored. It has also been noted that certain “Fake UPIs” were shown to give false assurance of payment. The said view was endorsed by the learned ASJ.

20. To constitute the offence of cheating, the element of *fraudulent or dishonest intention* must exist from the beginning. Essentially, the dispute relates to non-payment of certain dues by the petitioner company against receipt of certain rice consignments. The same amounts to breach of the agreement between the parties. Although presence of civil remedies does not preclude continuation of criminal proceedings, mere breach of an agreement or contract does not give rise to the offence of cheating and it is to be shown that the accused had a dishonest intention at the time of making the promise. In the case of ***Vesa Holdings (P) Ltd. v. State of Kerala : (2015) 8 SCC 293***, the Hon’ble Apex Court held as under:

*“12. From the decisions cited by the appellant, the settled proposition of law is that **every breach of contract would not give rise to an offence of cheating and only in those cases breach of contract would amount to cheating where there was any deception played at the very inception**. If the intention to cheat has developed later on, the same cannot amount to cheating. **In other words for the purpose of constituting an offence of cheating, the complainant is required to show that the accused had fraudulent or dishonest intention at the time of making promise or representation**. Even in a case where allegations are made in regard to failure on the part of the accused to keep his promise, in the absence of a culpable intention at the time of making initial promise being absent, no offence under Section 420 of the Penal Code, 1860 can be said to have been made out.”*

(emphasis supplied)

21. In the present case, undisputably, the petitioner company had long standing business relations with the complainant company



coursing over a decade starting since the years 2013-2014 and the disagreements only cropped up in the year 2020 due to non-payment of dues (as per the complainant)/ supply of inferior quality of rice (as per the petitioners), before which, the parties amicably continued to transact with each other. The complaint mentions that some dispute had been raised by the petitioners in relation to quality, which led to them even demanding back certain cheques issued towards part liability. Although it is asserted that the same is merely an excuse, the complainant company has failed to establish that the petitioners had any *mal fide* intent behind issuing the said cheques.

22. In such circumstances, souring of relations and non-payment of dues, including dishonour of cheques, is not sufficient to make out a case of cheating, without establishment of dishonest intention at the very inception. In the opinion of this Court, the learned Trial Court has thus erred in finding that a *prima facie* case of cheating is made out on account of dishonour of cheques.

23. Moreover, the complaint suggests that false assurances of payments were essentially made by the accused to induce delivery of further rice consignments. It is important to note that the last delivery of consignment was made on 03.10.2020, whereafter, the WhatsApp chats with photographs of cheques were sent on 16.10.2020. Thereafter, the UTR details were shared whereby it was allegedly represented that some payment has been effected on 30.12.2020. Both the Courts below have not given any deference to the fact that the alleged inducements by way of the cheques and UTR details



apparently took place *after* delivery of consignments. Although it is also alleged that the cheating was for the purpose of delaying encashment of some cheques, the said assertion holds no merit as the complainant company clearly had no qualms in encashing other cheques. Admittedly, the petitioners made nominal payments in the meantime as well. The same appears to be an attempt at salvaging business relations. Even if the case of the complainant is taken at the highest, merely because the petitioners failed to pay the dues, the same would not prove that the petitioners' intention was to cheat the complainant company from the very inception. The inception in the opinion of this Court started in the year 2013, pursuant to which parties admittedly transacted with each other for almost a decade.

24. In the present circumstances, the sheer longevity of the business relations between the parties belies the assertion of there being any dishonest intention on part of the petitioners at the very inception, especially considering that no specific instances of inducement prior to delivery of goods have been mentioned except for assurances which were relatively common throughout their business have been made. Thus, the offence under Section 420 of the CrPC is not made out against the petitioners.

25. Insofar as the offences under Sections 468/471 of the IPC are concerned, it is pertinent to note that the counsel for the petitioners had emphasized before the learned ASJ that the WhatsApp message relied upon by the complainant company in regard to the UTR is unreadable and the same is not a Fake UPI as observed by the learned



Trial Court in the impugned summoning order. While dismissing the revision petition, the learned ASJ has observed that whether the ingredients of offence punishable under Section 465 of the IPC are satisfied or not are to be seen at the appropriate stage, and emphasized that the consideration at the time of summoning is different from the stage of framing of charge.

26. This Court is not in agreement with the said observation. As noted above, before issuance of process, the Court is required to ascertain as to whether there are *sufficient grounds for proceeding* against the accused for the named offences. In the opinion of this Court, such an assessment cannot be made by being totally blind to the *ingredients* of the alleged offence. While the test at the stage for framing of charge is distinct from the one to be applied at the stage of issuance of summons, it is not open to the Court to mechanically proceed against an accused for a particular offence without examining if the allegations as well as evidence is sufficient for proceeding against the accused.

27. It is alleged that the offence under Sections 468 and 471 of the IPC are made out as the fabricated UTR number was shared and certain cheques (whose photographs were sent through WhatsApp) were also not handed over. Forgery involves the element of falsifying a document. Having found that no case of cheating is made out, merely because the petitioners failed to give cheques which were to be handed over towards payment of dues, the same is not sufficient to make out a case for forgery for the purpose of cheating as is



criminalised under Section 468 of the IPC, especially since non-handing over of cheques does not imply that the cheques themselves were forged. As far as the issue of fake UPI is concerned, pertinently, no delivery was made post 03.10.2020 and the same could not have resulted in any inducement for parting of goods.

28. It is imperative to note that the dispute is essentially civil in nature. It is well-settled that criminal proceedings ought not to be weaponised to wreak vengeance or harass the other side. In the case of ***Paramjeet Batra v. State of Uttarakhand: (2013) 11 SCC 673***, the Hon'ble Apex Court had noted that where the allegations are essentially of a civil nature, the High Court should not hesitate to quash the proceedings. The relevant portion of the judgment is as under:

*“12. While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. **But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence.** In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process of the court.”*

(emphasis supplied)

29. *Prima facie*, even at their highest, the allegations do not disclose an element of criminality and commission of a cognizable offence, in such circumstances, continuation of proceedings against



the petitioners would be an abuse of the process of law and merits the exercise of the jurisdiction of this Court under Section 482 of the CrPC.

30. It is also argued that no enquiry as envisaged under Section 202 of the CrPC took place either. Having found that no sufficient grounds exist for proceeding against the accused persons, this Court does not consider it apposite to deal with the said ground.

31. Although Respondent No. 3 (Accused No. 9) has been impleaded as a respondent as he had not preferred the revision petition, it is imperative to note that his role is akin to that of Petitioner Nos. 7 and 8, that is, he was employed as a warehouse in-charge. Having found that the present case essentially pertains to a commercial dispute and no case is made out against the petitioners, including Petitioner Nos. 7 and 8, no purpose would be served by keeping the proceedings pending against Respondent No.3 alone.

32. In view of the aforesaid discussion, the impugned order as well as the impugned summoning order are set aside. The present petition is allowed in the aforesaid terms. Pending applications also stand disposed of.

AMIT MAHAJAN, J

November 24, 2025
“SS”