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

Reserved on: 01st September, 2025
% ***Pronounced on: 21st November, 2025***

\+ **CRL.M.C.1880/2018, CRL.M.A.6689/2018, CRL.M.A.21478/2025**

1. **FEDERATION OF INDIAN EXPORT ORGANISATION**
through its AR
Mr. Nawal Baweja

2. **S K SARAF**
S/o Sh. Madho Prasad Saraf
R/o Tecnocraft Industries Ltd
A-25 MIDC Manar Industrial Area
Road No 3 Andheri East,
Mumbai – 400093

3. **SH. A. SAKTHIVEL**
S/o Late Sh. C S Arumugam
R/o 6, SNVS Layout Tirpur-7
Tamil Nadu

.....Petitioners

Through: Mr. Manit Moorjani, Advocate with Mr. A.P Srivastava, AR.

versus

1. **THE STATE GOVT OF NCT OF DELHI**

2. **AKSHAY GUPTA**
S/o Sh. N C Gupta
R/o C-192 Madhuban East
Delhi-92

.....Respondents

Through: Mr. Madhav Bhatia, Ms. Muskan Aggarwal, Advocates for Respondent No. 2.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. The Petition under Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.P.C.'*), has been filed on behalf of the Petitioners, against the Order dated 20.09.2017 of learned ASJ-03, New Delhi Courts, New Delhi whereby the **Revision** filed to challenge the Order of Summoning of the learned Metropolitan Magistrate dated 01.08.2015, **was dismissed as barred by limitation**. Also, the challenge to the two Orders dated 14.10.2016 and 28.07.2016 *vide* which the learned Metropolitan Magistrate had directed the Petitioners to file the copy of their Passports in support of their Application for seeking personal exemption, was also rejected.

2. ***Brief facts*** are that the Respondent No.2/Complainant had filed a Complaint under Section 200 Cr.P.C. wherein it was stated that the Petitioner No. 1/Accused/Federation of Indian Export Organisation (FIEO), was constituted to facilitate Indian Exports and to address the grievances of Indian Export. The Petitioner No. 2, namely, Mr. S.K. Saraf and the Petitioner No. 3, Mr. S.K. Sakthivel, were the Vice-President and General Secretary of FIEO, respectively. The Complainant averred that in June, 2005, a Project named ITC-Romania was initiated by the Petitioner No. 3/ Sh. A. Sakthivel on behalf of FIEO, to promote Indian exports to East European Countries. On 15.10.2007, a subsidy of Rs.498/- lacs from Ministry of Commerce was approved, which had to be distributed over a period of three years. FIEO through the Petitioners promised various benefits and facilities under this Project and they represented to the State that the stakeholders would be given international exposure.

3. Ms. Gayatri Gupta, the wife of the Complainant/Mr. Akshay Gupta, had a Company by the name of *M/s Eva Exports*, which made an investment of Rs.5 Lacs *vide* Cheque drawn on Bank of America.

4. The Secretary General/ Petitioner No. 3, initiated the formation of Empowered Executive Committee (EEC) amongst the stakeholders, to expedite the progress of the venture. The *Complainant* was elected as the Chairman of the Committee. In order to supervise and oversee the progress of the Project, Complainant was asked to visit Bucharest and was sanctioned Euros 1500 per month, till the launch of the Project. However, he was not paid the sanctioned amount.

5. The Complainant further stated that the later, he was appointed as an Administrator along with the Petitioner No. 3, namely, Sh. A. Sakthivel, without any decision making power since according to Romanian Law, no Company enjoys the right of being a separate legal entity and only the Administrator is the sole In charge and answerable for work and deeds of the Company.

6. In November, 2008, in the Board Meeting of the Company held at Delhi, the Complainant was again asked to visit the Romania for facilitating the progress of the Project and was promised payment of Air fare and Euros 1000 per month for expenses. Despite the fact that no earlier promise remuneration of 1500 Euros per month had been paid, the Complainant was also permitted to appoint Mr. Danial Temelie, at an allowance 400 Euros per month, to assist him in office work. The Complainant however, was not paid the promised remuneration and no financial assistance was provided by ITS even to meet the basic needs like water, electricity, telephone bills, which were later disconnected for non-payment. The Complainant asserted that on finding out the intention of the Accused persons to cheat the Complainant and all other investors by misappropriating the funds paid by them, the Complainant tendered his resignation on 06.01.2009, which was accepted on 21.01.2010 by ITS, in its meeting held at New Delhi. However, the name of the Complainant was never deleted in the Government records in Romania.

7. In August, 2009, the accused persons in furtherance of their intention to cheat stakeholders scrapped the Project in question, without giving any prior intimation and till date, there has been no allotment of any stall to any stakeholders and even basic promises have not been fulfilled by the accused persons. The Complainant alleged that the Project as envisaged has not been inaugurated till date and no advertisement of publicity, has been undertaken to promote the Project. No local staffs to deal in the foreign land with foreign language are appointed and no Policy has been made to run the Project.

8. The Complainant asserted that he had incurred a total expenditure to the tune of Rs.20,10,746/- in the investment and promotion of the Project in question. It is claimed that the accused persons in furtherance of their common intention, had cheated the Complainant and other shareholders in the Project and thus, committed offence of *criminal breach of trust* and have *misappropriated the amount* sanctioned by the Government and invested by the Complainant and other shareholders persons causing *wrongful loss to them.*

9. In support of his Complaint, the Complainant, Mr. Akshay Gupta, examined himself as CW-1 and reiterated the contents of the Complaint. He proved the documents, Ex.CW-1/A to Ex.CW-1/S, in support of his assertions.

10. The Complainant in his Statement dated 29.05.2012 affirmed that the Accused No. 2, namely, Sh. A. Sakthivel and Accused No. 3, namely, Mr. S.K. Saraf are not the Government servants. The Complainant further deposed that the Accused No. 1/FIEO is not a Government Organisation but is a private society. Further, during the arguments, he voluntarily dropped the Accused No. 4, namely, Sh. O.P. Upadhyay, from the array of parties.

11. The Complainant also examined *CW-2, Mr. Rohit Ralhan and CW-3 Mr. Ashish Asaf,* who supported the case of the Complainant and stated that despite big promises and assurances, the accused persons failed to provide requisite facilities to the stakeholders and because of their illegal activities, the Project in question was scrapped causing wrongful loss to them.

12. The learned Metropolitan Magistrate in the **Order dated 29.05.2012** considered the facts and the evidence led by the Complainant and concluded from the evidence of the witnesses and the documents that the *prima facie* case was made out against the Accused Nos. 1, 2 and 3 and they were summoned *vide* Order of Summoning dated 29.05.2012.

13. The Accused Nos. 2 and 3 filed an Application for dropping them from the Complaint. However, *vide* **Order dated 29.08.2014**, the learned M.M. observed that the dropping of present proceedings against the two Accused, can only be done after leading of pre-charge evidence, which has not been led till date.

14. The aforesaid two Orders i.e. the Order of Summoning dated 29.05.2012 and the Order dismissing the discharge Application *vide* Order dated 29.08.2014, were challenged by Mr. S.K. Saraf and Mr. A. Sakthivel *vide* ***Criminal Revision No. 155/2014***.

15. ***Ld. ASJ observed that the Summoning Order*** dated 29.05.2012 suffered from vital defects as he did not state for what offences the Revisionist was summoned. Accordingly, the Impugned Order dated 29.05.2012 was set-aside and the Case was **remanded back** to the learned Trial Court, to pass a reasoned and speaking Order.

16. The learned M.M. *vide* **Order dated 01.08.2015,** after referring to the averments made in the Complaint and the testimony of CW-1, CW-2 and CW-3, observed that *prima facie* Case against the Accused Nos, 1, 2, 3, for offences under and alternatively under **Section 420/34 IPC**, was made out. Since none of the accused was a public servant banker or merchant, it was held that the offence under **Section 409/34 IPC** was not made out.

17. **In the interim, two Orders dated 28.07.2016 and 14.10.2016,** came to be passed by the learned M.M. whereby in the Application seeking Exemption from personal appearance, the Petitioners/accused were directed to produce their Passports, to show that they were unable to travel on account of their medical ailments.

18. ***The Summoning Order*** was again challenged the second time by way of Revision Petition before the learned ASJ, who *vide* impugned Order dated 20.09.2017, after due consideration, dismissed the Revision Petition against the Summoning Order dated 01.08.2015, on the ground that it was barred by limitation for which, there was no explanation.

19. **Ld. ASJ further observed** that the other two Orders dated 28.07.2016 and 14.10.2016, which were for the directions to produce the Passports, were only interlocutory in nature and not amenable to revisional jurisdiction under Section 397(2) CrPC. The challenge to the Summoning Order and the two miscellaneous Orders was accordingly, dismissed on 20.09.2017.

20. ***Aggrieved by dismissal of the Revision Petition dated 20.09.2017 against the Summoning Order and the two Orders dated 28.07.2016 & 14.10.2016, the same has been challenged by the Petitioners, FIEO, Mr. S.K. Saraf, Vice-President and Mr. A. Sakthivel, President, by way of the present Petition.***

21. The present Petition seeks the quashing of the Sessions Court's dismissal Order dated **20.09.2017** primarily on the grounds of miscarriage of justice and abuse of process due to the procedural and legal illegalities committed by the lower courts and the Ld. ASJ passed the impugned Order disregarding the substantive illegalities in favor of technicalities.

22. It is submitted that he ASJ was vested with the *suo motu* power to revise the MM's Order, but he failed to exercise it, but was simply dismissed the Challenge to the Summoning Order on the technical ground of limitation. This failure amounted to continuing a wrong and illegal order and constitutes a miscarriage of justice.

23. Further, the Ld. ASJ incorrectly held that the Orders dated 28.07.2016 and 14.10.2016 were interlocutory in nature, thereby barring the Revision Petition under Section 397(2) Cr.P.C. The Ld. ASJ failed to appreciate that the earlier orders of the MM i.e. 28.07.2016 and 01.08.2015 merged into the Order dated 14.10.2016, meaning thereby that the entire history of the summoning and its underlying illegality was subject to revision.

24. The challenge to the Ld. MM's second summoning order dated 01.08.2015, which was claimed to be in defiance of a Superior Court's explicit directive. It is submitted that the Ld. MM failed to comply with the Sessions Court's directive (03.02.2015) to pass a reasoned and speaking order for summoning.

25. It is contended that he MM's order was illegal as it summoned the Petitioners under alternative sections S. 403/406/34 IPC or alternatively S. 420/34 IPC, demonstrating the Ld. M.M. himself was not sure what are the offenses for which the accused should be summoned. It is submitted that such a process is *"unknown to the legal jurisprudence"*.

26. The MM acted with inherent contradiction by simultaneously issuing Notice on the Petitioners Application to stop/dismiss the Complaint and also directing the Petitioners to appear for Bail formalities and produce their passports, effectively negating the pending Application without passing a formal order. The demand for passports was deemed unreasonable, as Medical certificates for exemption were already filed and accepted.

27. The Petitioners argue that even the facts alleged do not disclose a criminal offence, and the continuation of the proceedings is an abuse of legal machinery. The Complaint lacks the basic ingredient for cheating under S. 420 IPC, as no fraudulent or dishonest intention at the time of making the promise was established. The subsequent failure to fulfill a promise does not by itself attract Section 420 IPC.

28. The matter is essentially civil in nature, relating to a commercial transaction i.e. investment and recovery of expenses. The Complainant's wife has already filed a Civil Suit for Recovery of the same amount in the Delhi High Court, demonstrating the dispute is contractual, and the criminal complaint is a tactic to extort and harass the Petitioner.

29. ***The Ld. Counsel for the Respondent No. 2*** has vehemently opposed the Petition. It is submitted that the later Orders were interlocutory and the challenge to the summoning Order dated 01.08.2015 is time-barred.

30. It is stated that the Ld. MM correctly noted a *prima facie* case based on the witness testimonies and documents on record. Further, it is contended that the Petitioners are intentionally avoiding appearance and proceedings before the Trial Court through successive Petitions and Applications.

31. *Thus, it is prayed that the same be dismissed.*

Submissions Heard and Record Perused.

I. Case Overview:

32. The Complaint **CC No. 01/01/13 (New No. 2435/16)**, was filed by Sh. Akshay Gupta/Respondent No. 2 under Sections **403/406/409/420/34 IPC**, alleging criminal breach of trust, cheating, and misappropriation related to the 'ITC-Romania' Project against the Petitioners, including the **Federation of Indian Export Organisation** (**FIEO**) and its officials. The Complainant asserted that the Petitioners, through their actions and false promises, cheated the Complainant and other investors, leading to a loss of approximately Rs. 20,10,746/-.

33. The learned M.M *vide* his Summoning Order dated 20.09.2017 held that *prima facie* offence under Section 420/406/34 IPC and in the alternative Section 420/34 IPC is made out.

34. Aggrieved, the Revision Petition was filed challenging the said Summoning Order dated 20.09.2017 and the two other Orders dated 28.07.2016 and 24.10.2016 directing the Accused No.2 to 3 to appear for Bail consideration and to complete the Bail formalities respectively.

35. The Revision Petition challenged multiple orders, including the summoning order, an order dismissing an Application to drop proceedings, and subsequent orders compelling appearance. The details of which are as under:

Date of Order	Issuing Court	Subject Matter of Order
29.05.2012	MM, New Delhi	**Initial Summoning Order**: Summoned Accused Nos. 1, 2, and 3.
29.08.2014	MM, New Delhi	Dismissed an Application by Accused Nos. 2 and 3 to drop the proceedings/Complaint.
03.02.2015	Sessions Court (Raj Kapoor, ASJ)	**Allowed a Revision Petition** (No. 155/14) and set aside the orders dated 29.05.2012 and 29.08.2014, **remanding the matter to the MM to pass a reasoned and speaking order** on summoning.
01.08.2015	MM, New Delhi	**Fresh Summoning Order**: Summoned Accused Nos. 1, 2, and 3 under Sections **403/406/34 IPC** and **alternatively** under Section **420/34 IPC**.
28.07.2016	MM, New Delhi	Directed Accused Nos. 2 and 3 to **appear on the next date for bail consideration** and supply of documents.
14.10.2016	MM, New Delhi	Issued notice on an Application by Accused No. 1 to drop proceedings, but simultaneously directed Accused Nos. 2 and 3 to **appear on the next date to complete Bail formalities and bring their passports**.

36. The key contention is whether the ASJ was justified in dismissing the Revision Petition on technical grounds of limitation and interlocutory nature of Orders, without assessing the merits of the Magistrate's summoning order dated 01.08.2015, which summoned the accused under Sections 403/406/34 IPC or alternatively 420/34 IPC.

II. <u>Dismissal of Revision Petition on Limitation:</u>

37. The learned ASJ in the Revision Petition No.35/2017 which was instituted on 09.01.2017 challenging the Summoning Order dated 01.08.2015, was dismissed on the sole ground of it being barred by limitation. It was observed that the various Order sheets dated 21.03.2016, 28.07.2016 and 14.10.2016 it was evident that the Revisions/Accused persons had knowledge of the Summoning Order.

38. Consequently, the Revision Petition was dismissed as being barred by limitation. The Summoning Order dated 01.08.2015 was sought to be challenged by way of Revision filed on 09.01.2017, but the scope of Revision is distinct from the consideration on merits, as is done in the case of Appeal. Revision is essentially to correct the jurisdictional error.

39. In the present case, it is claimed that the learned Trial Court fell in patent illegality in issuing the summons on a Complaint which did not disclose any offence whatsoever. By continuing such Complaint, it is the Petitioner who is made to face a Complaint which has no merit in it.

40. The learned ASJ in a case where there is blatant illegality visible on the face of the Order, should not have resorted to the hyper technicality of limitation and refused to look into the merits of the Revision Petition. Therefore, the Order of learned ASJ dated 20.09.2017 dismissing the Revision Petition on the short ground of limitation, is not tenable.

41. While so holding it would have been appropriate to remand the case before the case before the learned ASJ to consider the merits afresh, but considering that the matter is lingering since 2012, no purpose would be served in again remanding the case for reconsideration before the Court of Sessions. Hence, this Court deems it appropriate to consider the merits of the Complaint.

III. Maintainability of the Petition:

42. The jurisdiction under Section 482 is plenary and distinct from its revisional jurisdiction and can be invoked at any stage.

43. The primary function of the inherent jurisdiction under S.482 is to quash proceedings where the Complaint and pre-summoning evidence, taken at their face value and accepted in entirety, do not constitute the offence alleged in the Complaint and is thus, *mala fide.*

44. Where the proceedings suffer from a patent and fundamental illegality, as demonstrated by the contradictory and non-speaking nature of the MM's order, and where the continuation of such proceedings would result in harassment and oppression, the High Court is obligated to intervene, irrespective of any technical bar.

45. Therefore, notwithstanding the technical dismissal by the Sessions Court, the present Petition is maintainable as it invokes the inherent, saving powers of the High Court to correct a fundamental miscarriage of justice and quash illegal criminal proceedings.

IV. Analysis of the Offences Alleged:

46. The entire Complaint and the corroborating testimonies, fail to establish the essential ingredients of the offences of Cheating under S. 420 IPC or Criminal Breach of Trust under S. 406, as is discussed below.

A. Offence of Cheating:

47. The *sine qua non* to make out an offence of cheating under S. 420 is the existence of **dishonest or fraudulent intention** at the **inception** of the transaction itself.

48. In *Inder Mohan Goswami vs. State of Uttaranchal*, (2007) 12 SCC 1, while dealing with Section 420 IPC, this Court observed thus:

> *"**42.** On a reading of the aforesaid section, it is manifest that in the definition there are two separate classes of acts which the person deceived may be induced to do.* ***In the first class of acts he may be induced fraudulently or dishonestly***

> ***to deliver property to any person.*** *The second class of acts is the doing or omitting to do anything which the person deceived would not do or omit to do if he were not so deceived. In the first class of cases, the inducement must be fraudulent or dishonest.* ***In the second class of acts, the inducing must be intentional but need not be fraudulent or dishonest. Therefore, it is the intention which is the gist of the offence.*** *To hold a person guilty of cheating it is necessary to show that he had a fraudulent or dishonest intention at the time of making the promise. From his mere failure to subsequently keep a promise, one cannot presume that he all along had a culpable intention to break the promise from the beginning."*

49. As has also been held in the case of *Joseph Salvaraj vs. State of Gujarat,* AIR 2011 SC 2258, that there has to be *dishonest intention from the very beginning,* which is a *sine qua non* to hold the accused guilty for commission of the offence under S.420 IPC.

50. Thus, from the aforesaid judgments it is evident that for an act to constitute *Cheating under Section 420 IPC*, it is essential to prove that the accused had a *fraudulent or dishonest intention* at the time of making the promise. A mere subsequent failure to keep a promise cannot be used to presume that a culpable intention existed from the very beginning.

51. In support of the averments made in the Complaint, ***the Complainant Shri Akshay Gupta examined himself and CW1*** and confirmed that he was the Proprietor of M/s Mach Trade Wings and his wife Gayatri Gupta was the Proprietor of M/s Eva Export. He was appointed by his wife as her lawyer to represent her in the Scheme. He claimed that a subsidy of Rs.1.96 Crore was provided by the Ministry of Commerce on 15.10.2007 for the Project to the Petitioner Federation of Indian Export Organization. He deposed that he along with Accused No.3 S.K. Saraf was appointed as an Administrator of

Indian Trade Services (ITS), but he was merely a puppet without decision making power as the Administrator is the sole person In-charge under the Romanian law.

52. He incurred expenses totaling to Rs.20,10,746/- in investment and promotion of the Project. He eventually submitted his resignation on 06.01.2009 which was accepted in the Board Meeting on 21.01.2010. It is claimed that deliberately his name was not deleted from Romanian Government records making him liable for subsequent acts.

53. To corroborate his assertions, he had examined ***CW2/Rohit Relhan*** who was Member of FIEO and had invested a sum of Rs.2,60,000/-. He claimed that the promise of facilities like staff, canteen, business and the security etc made by the Organizers was nothing but a blatant lie. He corroborated that Project was inactive for only 2-3 months and that he and others lost money due to mismanagement of FIEO and false promises. He corroborated that the name of the Complainant was never removed from the Romanian records and that his name was used as a scapegoat for illegal activities.

54. The Complaint also examined ***CW3/Ashish Asif*** who also deposed that though services were promises such as retail and wholesale space, furniture and aggressive marketing campaign, office staff and translators and that the Project was intended to continue over the three years, but the quality of the stall was pathetic and no furniture was provided. He confirmed that the Organizers did not provide the requisite facilities and carried out illegal activities leading to the scraping of the Project causing him as well to others a wrongful loss.

55. As deposed by the Complainant himself, once the Project was launched, he was appointed to the high-ranking post of Administrator. This demonstrates that the Petitioners **entrusted him** with the Company's affairs, a fact that **runs contrary** to any allegation of an intention to cheat him from the outset. There is no *prima facie* evidence to show that there was an intention to cheat at the inception of the Project.

56. The collective testimony of the other two witnesses similarly emphasizes mismanagement, non-performance, and the eventual failure of the project. However, this evidence primarily establishes a civil breach. There is no explicit testimony or document to prove the necessary element that the Petitioners possessed a dishonest intention to cheat the investors at the specific moment they initiated the project and accepted the investment.

57. From the testimony of the Complainant as well as the other two witnesses, what emerges is only that the Project, though undertaken, was mismanaged. The failure to honour promises regarding requisite infrastructure and facilities led to the eventual collapse of the Project. This constitutes a case of breach of Agreement, not a criminal offence.

58. Thus, the matter is fundamentally a dispute concerning a civil breach of contract or a rendition of accounts, rather than a case of criminal deception.

59. The alleged financial loss stems entirely from a **subsequent failure** to honour promises, including unpaid remuneration, disconnected utilities, and the scrapping of the project.

60. This subsequent failure constitutes a commercial dispute, which is strictly a matter of civil breach of contract or rendition of accounts, and does not satisfy the ingredients of criminal deception under Section 420 IPC.

61. While there may have been mismanagement and the ultimate scrapping of the Project, such averments are insufficient to sustain a charge of cheating. No offence under Section 420 IPC is made out. Upon an appreciation of the contents of the Complaint along with the testimony of the three witnesses, it is evident that no case for Summoning under Section 420 IPC is made out.

62. The learned ASJ erred in dismissing the Revision Petition against the Summoning Order dated 01.08.2015 on the technical ground of limitation, when the matter ought to have been considered on its merits.

B. Criminal Breach of Trust:

63. The offense of criminal breach of trust under Section 406 IPC requires two foundational elements: ***first***, an ***"entrustment"*** of property, and ***second***, a ***dishonest misappropriation*** of that property, as has also been reiterated by the Apex Court in the case of *Delhi Race Club* (supra) which has been referred to with approval in the recent case of *Paramjeet Singh vs. State of Himachal Pradesh & Ors.,* 2025 INSC 1118.

64. Thus, the offence of criminal breach of trust under S. 406 requires proof of entrustment of property and subsequent dishonest misappropriation. Similarly, the Apex Court in *Central Bureau of Investigation, SPE, SIU(X), New Delhi v. Duncans Agro Industries Ltd., Calcutta*, (1996) 5 SCC 591 held that the expression ***"entrusted with property"*** used in Section 405 of the IPC connotes that the property in respect of which criminal breach of trust can be committed, must necessarily be the property of some person other than the accused or that the beneficial interest in or ownership thereof must be in the other person and the offender must hold such property in trust for such other person or for his benefit. The same has been reiterated by the Apex Court in *Delhi Race Club* (supra) which is reiterated in the recent case of Apex Court in the case of *Paramjeet Singh* (supra).

65. The Complainant and witnesses' testimony primarily focused on the failure to provide promised facilities and the project being scrapped. While they alleged that the accused committed criminal breach of trust and misappropriated the sanctioned and invested amounts, the specific element of "dishonest conversion" or use of the Complainant's "entrusted property", is distinct from a *general financial failure* or breach of *a commercial agreement,* was not sufficiently established by the evidence on record.

66. The Complainant explicitly stated that the sum of Rs. 20,10,746/- was incurred as *"investment and promotion"* of the project and was *"invested and not that the said amount was entrusted"*.

67. An **investment** in a commercial transaction, where money is exchanged for a potential benefit (like a stall or facilities) and involves risk, differs fundamentally from **entrustment**, where one person hands over property to another for a specific purpose (e.g., depositing money in a bank or giving something for safekeeping). This direct admission by the Complainant "negates the possibility of entrustment, thereby demolishing the necessary foundation" for a charge under Section 406 IPC.

68. Since the Complainant himself testified that the amount was an **investment** and not an **entrustment**, the very basis for the offence of Criminal Breach of Trust under Section 406 IPC is absent.

69. From the entire evidence as has been led by the Complainant and his two witnesses what emerges is that the Project was launched in which investments were made by the Complainant as well as other parties. It is not a case where there was an entrustment of the amounts which has been misappropriated for dishonestly use by the Respondents for the purpose other than those for which the money was entrusted.

70. It has clearly emerged from their respective testimony that it is a case of mismanagement or dishonest misappropriation of the funds of the Complainant.

71. It is essentially a commercial venture which was undertaken which did not materialize as per the anticipation of the parties.

72. No offence of Breach of Trust under Section 406 IPC is, therefore, made out.

V. Abuse of Process:

73. The Apex Court in *State of Haryana & Ors. vs. Bhajan Lal & Ors.*, 1992 Suppl. (1) SCC 335, has identified 7 categories wherein interference of the High Court is warranted in exercise of its jurisdiction under Section 482 Cr.P.C, and the instant case falls within the ambit of first category which states *"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."*

74. The proceedings are a **manifest abuse of the process of court.** The allegations are essentially civil, concerning a business transaction. The fact that the Complainant's wife filed a civil suit for recovery of the same amount of Rs. 20,10,746/- based on the same facts and documents only confirms the dispute's civil nature.

Relief:

75. In view of the aforesaid discussion, the Petition is **allowed**.

76. The Complaint Case and the proceedings emanating therefrom, are hereby quashed.

77. The present Petition is disposed of, along with pending Application(s), if any.

(NEENA BANSAL KRISHNA)
JUDGE

NOVEMBER 21, 2025/RS