IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISION JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Uday Kumar

CRR/1384/2021

MISS ANINDITA GHOSH
VS
STATE OF WEST BENGAL AND ANR

For the Petitioner : Mr. Subhasish Panchhal, Advocate

For the State : Mr. Joydeep Roy, Advocate
Mr. Dipankar Pramanick, Advocate

Heard on : February 24, 2026 & February 25, 2026

Judgment on: February 25, 2026

Uday Kumar, J.

1. This is an application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973, preferred by the petitioner, Ms. Anindita Ghosh. The petitioner seeks the indulgence of this Court for the quashing of proceedings in connection with G.R. Case No. 6728 of 2015, currently pending before the Learned Judicial Magistrate, 1st Class, Municipal Court, Howrah. The said proceedings arise out of Golabari P.S. Case No. 1033 of 2015 dated September 10, 2015, and have culminated in Charge Sheet No. 12 of 2016, filed under the

aegis of Sections 420, 406, and 506 of the Indian Penal Code (IPC).

2. The bedrock of the prosecution's case lies in a written complaint lodged by Opposite Party No. 2, Smt. Veena Jain. The allegations, as carved out in the First Information Report (FIR), suggest that the petitioner, representing herself as the lawful owner/allottee of a property situated at 27, Moulana Abdul Kalam Road, entered into an Agreement for Sale dated June 29, 2011. The agreement pertained to the transfer of a flat measuring 1000 sq. ft. for a total consideration of ₹25,00,000/-. It is the complainant's case that after the payment of an earnest money deposit amounting to ₹1,62,000/-, the petitioner failed to deliver possession within the stipulated 24-month period. It is further alleged that the petitioner diverted the land to a third-party developer, refused to refund the advance, and issued criminal threats, thereby exhibiting a dishonest intent from the inception of the contract.

3. Mr. Subhasish Panchhal, learned counsel appearing for the petitioner, submits with considerable emphasis that the impugned criminal proceeding is a textbook example of a civil and commercial dispute being dressed up in the garb of a criminal offense. He contends that the "Agreement for Sale" was never intended by either party to be acted upon as a

conveyance of property. On the contrary, it was executed as a security document for a private loan arrangement of ₹6,50,000/-.

4. To substantiate this claim of a financial transaction rather than a property sale, the learned counsel points to the fact that the petitioner has already repaid a staggering sum of ₹12,90,000/- to the complainant. He argues that the execution of the agreement was done under financial "coercion" (misstated as 'portion' in earlier records) to serve as collateral. Furthermore, he highlights a significant development during the hearing of the anticipatory bail application before this Hon'ble Court (CRM No. 10050 of 2015), where the petitioner, to demonstrate *bona fides*, refunded the entire earnest money of ₹1,62,000/- via a pay order in open Court. He submits that the subsequent affidavit filed by the de facto complainant, acknowledging receipt of payments toward "interest," effectively demolishes the theory of a "dishonest sale agreement" and proves the existence of a pure money-lending transaction.

5. Per contra, Mr. Dipankar Pramanick, learned counsel for the State, supported by the records of the Investigating Agency, submits that the filing of the Charge Sheet is indicative of a prima facie case that warrants a full-dressed trial. He argues that a mere refund of money at the post-FIR stage or during bail

proceedings does not "wipe out the criminality" of the act. The State’s primary contention is that the petitioner’s act of entering into a sale agreement and subsequently diverting the property to a developer—without the knowledge or consent of the complainant—establishes a dishonest intention at the inception, which is the *sine qua non* for an offense under Section 420 of the IPC. He further characterizes the "loan security" argument as an "afterthought" and a matter of defense that must be tested during the trial, rather than in a quashing proceeding under Section 482.

6. Upon thorough consideration of the rival contentions and the materials on record the following questions that fall for determination are;

   i. whether the present dispute, arising out of a real estate agreement but followed by total restitution, is essentially civil in nature; and

   ii. whether the failure of the Investigating Agency to acknowledge the refund in the charge sheet reflects a non-application of judicial mind.

7. Indubitably, the dispute is purely civil in nature is the primary contention of the petitioner. It is a well-settled principle of law, as enunciated in the landmark case of *State of Haryana vs. Bhajan Lal [1992 Supp (1) SCC 335],* that the High Court must

exercise its inherent power to quash proceedings under Section 482 of the Cr.P.C. to prevent the abuse of process of the law when a criminal case is manifestly attended with mala fide or where the dispute is essentially of a civil nature. Furthermore, in *Inder Mohan Goswami vs. State of Uttaranchal*, the Apex Court cautioned against the tendency of converting purely civil disputes into criminal cases to settle private scores. For a case to fall under the mischief of Section 420 of the IPC, there must exist a dishonest intention at the very inception of the transaction. If the intention to deceive follows the execution of the contract, it may constitute a breach of contract, but not the offense of cheating.

8. In the present case, the agreement for sale was executed on June 29, 2011, as a debt recovery mechanism. The admission of interest payments by the complainant, made by O.P. in her own affidavit brings the transaction squarely within the realm of a private financial dispute. Those documents significantly dilute the theory of 'initial inception' regarding the sale of a flat and bring the transaction within the realm of private financial dispute.

9. This Court cannot ignore the significant development occurred on November 27, 2015 when petitioner refunded the entire earnest money of Rs.1,60,000/- by way of a pay order in open

Court. This was restitution acknowledged by the Hon’ble Division Bench while granting anticipatory bail. However, the Investigating Agency while submitting a charge sheet on January 15, 2016, maintained a stoic silence regarding this development. Such an omission reflects a mechanical approach to the investigation. The Hon’ble Supreme Court held in *Binod Kumar vs. State of Bihar* 2014 AIR SCW 6310, that Criminal Courts are not to be used as realization agencies, when the principal amount stands settled and acknowledged before this Court. The continuation of criminal trial for agitating and criminal breach of trial becomes mere formality intended to harass the accused.

10. Furthermore, this Court takes judicial notice of the fact that although the charge sheet was filed in January 2016, the matter has seen no substantial progress in the last seven years. The petitioner, a lady belonging to a reputed family, has been compelled to bear the stigma of a pending criminal prosecution for a dispute which is primarily commercial in nature. To allow a criminal prosecution to hang over a petitioner for a decade over such a dispute would be a travesty of justice. Upon a thorough consideration of the rival contentions and the materials on record, this Court finds that the admission of 'interest payments' by the de-facto complainant in her own affidavit brings the

transaction squarely within the realm of a private financial dispute. This admission significantly dilutes the theory of 'initial dishonest intent' regarding the sale of a flat.

11. In view of the holistic consideration of the facts, this Court arrives at the findings that -

    a. the transaction, having been accompanied by a partial return of funds and subsequently a full refund under judicial supervision, lacks the "dishonest intent" requisite for a conviction under Section 420 and,

    b. the de-facto complainant, having neither filed a suit for Specific Performance nor approached a Consumer Forum, has chosen the criminal route solely to exert pressure, which is an impermissible use of the criminal justice system and,

    c. the Charge Sheet, having failed to consider the admitted restitution of ₹1,62,000/-, is legally infirm and lacks the necessary materials to warrant a trial.

12. It is a well-entrenched principle of our criminal jurisprudence that the High Court, under its inherent jurisdiction, must act as a *sentinel on the qui vive* to ensure that the process of the Court is not utilized as a weapon of harassment. Where the disputed amount in a property-related transaction is fully

refunded and acknowledged before a Superior Court, and where the materials suggest a private loan transaction rather than a genuine intent to cheat, the continuation of proceedings under Sections 420 and 406 of the I.P.C. constitutes an abuse of the process of law, warranting interference under Section 482 of the Cr.P.C. Criminal courts cannot be converted into recovery agents or platforms for vendetta once financial liability has been redressed.

13. Upon a thorough consideration of the rival contentions and the materials on record, this Court finds that the admission of "interest payments" by the de facto complainant in her own affidavit brings the transaction squarely within the realm of a private financial dispute. This admission significantly dilutes the theory of "initial dishonest intent" regarding the sale of a flat. Therefore, this Court concludes that *"Where the disputed amount in a property-related transaction is fully refunded and acknowledged by the complainant before a superior Court during bail proceedings, and where the materials on record suggest a private loan transaction rather than a genuine intent to cheat, the continuation of criminal proceedings constitutes an abuse of the process of law."*

14. To allow a criminal trial to proceed after such restitution, especially when the Investigating Agency has failed to reflect

the same in its final report, would be to endorse a mechanical and oppressive application of the law. The de-facto complainant's own admissions regarding the "interest" nature of the payments further strip the case of the "dishonest intention" necessary to attract the rigors of Section 420 or Section 406 of the I.P.C. The criminal courts cannot be converted into recovery agents or platforms for vendetta once the financial liability has been discharged.

15. In view of the observations made and the findings arrived at hereinabove, this Court is of the firm opinion that the continuation of the criminal proceedings in this matter would be nothing short of an abuse of the process of law. The dispute is clearly a civil debt-related matter which has been given a criminal colour. The elements of Section 506 (Criminal Intimidation) also appear to be "bolted-on" to prevent the petitioner from seeking legal recourse.

16. Accordingly, the proceedings in connection with Golabari Police Station Case No. 1033 of 2015 dated 10th of September, 2015 (GR Case No. 6728 of 2015) including the charge sheet No. 12 of 2016 dated 15th January, 2016 presently pending before the learned Judicial Magistrate, 1st Class, Municipal Court at Howrah, are hereby quashed and set aside.

17. The petitioner Ms. Anindita Ghosh is, hereby, discharged from the bail her bail bond and is relieved from any further appearance before the learned Trial Court in connection with this case.

18. Let a copy of this judgment be sent to the learned trial Court immediately for information and to ensure that the records should reflect the quashing of the said proceedings.

19. Revisional application being CRR/1384/2021 stand allowed and disposed of.

20. Interim order, if any, stands vacated.

21. The Trial Court Record (TCR), if any, shall be sent down to the Trial Court, at once.

22. The Case Diary produced by the State, if any, be returned to the Learned Advocate for the State.

23. Urgent certified copies of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Uday Kumar, J.)

(Dictated in the open Court)

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