Form J(1).
SL. No. 6
Ct No. 42

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

PRESENT:
THE HON'BLE JUSTICE UDAY KUMAR

CRR 2372 OF 2024

ARIJIT BORAL
VS.
STATE OF WEST BENGAL & ANR.

Appearance:

For the Petitioner : Mr. Aniket Mitra
Mr. Sourav Chatterjee

For the Opposite Party No.2 : Mr. Prabhat Kumar Srivastava

For the State : Mr. Pradip Banerjee
Mr. Ramashis Mukherjee
Mr. P. Karan Singh
Mr. Neel Chakraborty

Heard on : 08.10.2026

Pronounced on : 08.10.2026

Judgment (Oral)

UDAY KUMAR, J.: –

1. Calling in question the legal sustainability of the entire criminal proceeding arising out of Chinsurah P.S Case No. 126 of 2022 dated 19.03.2022 corresponding to G.R No. 599 of 2022 including the Charge Sheet No. 317 of 2022 dated 31.07.2022 under Sections 420, 406 and 506 of the IPC, presently pending before the learned Chief Judicial Magistrate, Hooghly Sadar at Chinsurah, the instant criminal revisional

application under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.) has been preferred by the petitioner, Sri Arijit Boral who happens to be the accused no. 2 as well as the husband of the principal accused, Piyali Chatterjee Boral.

2. I have scrutinized the materials on record to decode the true foundational landscape and genesis of the controversy. On close appreciation of the factual matrix enveloping this case, it appears that the connected criminal proceeding was initiated upon a court complaint filed by the opposite party no. 2, Smt. Sumana Ghosh, under Section 156(3) of the Cr.P.C. before the Court of the learned Chief Judicial Magistrate, Hooghly, which was registered as M.P Case no. 144 of 2022. It has been alleged therein that she shared a warm, friendly and neighbourly relationship with the petitioner and his wife. Pursuant to this close association, the complainant advanced a friendly loan of Rs.7,00,000/- on July 27, 2020 to the petitioner's wife by way of an account payee cheque being Nos. 150314 and 150315 dated July 28, 2020 drawn on the State Bank of India, Bandel Branch for running grocery shop with a promise to repay the same within three months. Subsequently, on August 11, 2020, a further sum of Rs. 3,50,000/- was advanced in cash on account of the medical treatment of the petitioner himself. To add to this, thereafter, on October 21, 2021, additional loan amount of Rs. 1,25,000/- by way of an online funds transfer through the complainant's bank account along with cash amount of Rs. 25,000/- was extended to the petitioner and his wife for medical treatment and house repairs, taking the total claimed loan

amount of the Opposite Party No. 2 to Rs. 12,00,000/-. Later when the complainant and her husband visited the residence of the petitioner on November 30, 2021 and requested the return of the said money, the petitioner and his wife not only refused to repay the said amount but also abused them and drove them out of their residence under threats of dire consequences through the local muscle man.

3. Consequently, a formal demand notice was issued by the complainant' lawyer on December 07, 2021. Responding to the said notice, the petitioner's advocate sent a reply on January 12, 2022, completely denying any loan liability in favour of the complainant, instead setting up the substantial counter claim amounting to Rs. 25,89,140/- after adjusting the initial Rs. 7,00,000/-. Following these developments, the complaint was lodged leading to the registration of the formal FIR at the Chinsurah Police Station, and a comprehensive investigation was started by the Investigating Officer during which passbooks were seized under Section 91 of the Cr. P.C and statements of the witnesses were recorded under Section 161 of the Cr. P.C. Ultimately, the charge sheet was submitted on July 31, 2022 under Section 420, 406 and 506 of the IPC against both the petitioner and his wife.

4. Advancing his argument regarding challenge to the legality of the criminal proceeding pending before the Learned Trial Court, Mr. Mitra learned counsel for the petitioner contends that the dispute between the parties is purely civil in nature, emerging from commercial or friendly money transactions. It is argued that mere failure to repay the loan or

subsequent breach of promise to pay does not transform a civil debt into criminal offences attracting punishment under the penal laws.

5. Drawing further attention to the essential ingredients of cheating punishable under Section 420 of the IPC, he submits that there must be an element of dishonest or fraudulent intention right from the inception (*ab initio)* of the transaction, which is completely missing in the present case. In support of his such contention, learned counsel for the petitioner has placed reliance upon the decision of the Hon'ble Apex Court in *Chunduru Siva Ram Krishna & Anr. v. Peddi Ravindra Babu & Anr., [(2009) 11 SCC 203]* wherein it has been held that a mere subsequent failure to keep a promise does not attract the penal offence of 'cheating'.

6. Learned counsel has further relied upon the decision of the Hon'ble Supreme Court in *S.W. Palanitkar & Ors. v. State of Bihar & Anr., [(2002) 1 SCC 241]* for the proposition that there cannot be an offence of criminal breach of trust without *mens rea* i.e. a mental act of fraudulent misappropriation and in support of his such argument, has cited the decision of this Hon'ble Court in *M.S. Banga v. State of West Bengal & Anr., [2004 SCC OnLine Cal 443]* for the proposition that when a dispute is civil in nature arising out of contractual obligations, criminal proceedings are liable to be quashed.

7. Expanding further on his arguments, Mr. Mitra submits that no specific overt acts or allegations whatsoever have been attributed to the petitioner, in absence of which he cannot be roped into a criminal trial merely by virtue of being the husband of primary recipient of the funds.

Additionally, he submits that the mechanical inclusion of the offence of 'criminal intimation' punishable under Section 506 of the IPC is unjustified, as vague expressions and/or angry words spoken in the heat of the moment is insufficient to constitute the said charge. In support of his such submission, he draws the attention of this Court to the recent authoritative pronouncement of the Hon'ble Supreme Court in *Naresh Aneja v. State of Uttar Pradesh & Anr., [(2025) 2 SCC 604]*, particularly paragraph Nos. 24, 25 and 28 of the report, to emphasize the strict statutory threshold required to constitute criminal intimidation and vehemently urges that the complaint suffers from the fatal vice of suppression of material facts inasmuch as it deliberately conceals the reply dated January 12, 2022 to the said demand notice issued by a lawyer on behalf of the wife of the petitioner wherein the massive counter-claim of Rs. 25,89,140/- was raised against the complainant. On this aspect, reliance has been placed on the decision of this Hon'ble Court in *Raymond Ltd. (JKFT Division) v. H.V. Doshi & Brothers Pvt. Ltd., [2006 SCC OnLine Cal 31]*, submitting that suppression of material facts vitiates the criminal machinery and warrants immediate quashing of the entire criminal proceeding pending before the learned Trial Court.

8. On the contrary, Mr. Mukherjee, learned counsel for the State, ably supported by Mr. Srivastava, learned counsel for the opposite party no. 2 vehemently oppose the prayer for quashing. They submit that Investigating Officer, upon a thorough investigation, seized original bank passbooks of the State Bank of India, Bandel Branch, which

indisputably corroborate the debit of Rs. 7,00,000/- by a cheque from the bank account of the complainant, a subsequent online transfer of Rs.1,25,000/- from the account of the complainant and her husband to the account of the accused. The learned counsel submits that the investigation has moved far beyond the bald assertions and has unearthed concrete documentary evidence clearly verifying substantial fund transfers.

9. Learned counsel further submitted that the charge sheet has been filed after duly collecting the clinching materials and recording witness statements under Section 161 of the Cr.P.C. and that the accused persons failed to produce any contemporaneous documents or ledgers during the investigation to substantiate their purported counter-claim. To lend support to such contentions, learned counsel placed reliance upon the recent binding pronouncement of Hon'ble Apex Court in *Kathyayini v. Sidharth P.S. Reddy & Ors., [2025 SCC Online SC 1428]* specifically paragraphs 19, 20, 21 and 22 of the report, to argue that the civil and criminal remedies are co-extensive and not mutually exclusive, the existence of civil backdrop or a rival defence version does not preclude criminal prosecution, where a *prima facie* case of deception, entrustment and threats is made out on record.

10. Learned counsel also refers to the authoritative pronouncements of the Hon'ble Supreme Court in *Anurag Bhatnagar & Anr. v. State (NCT of Delhi) & Anr., [2025 SCC OnLine SC 1514]* 1514 and in *Sri Krishna Agencies v. State of Andhra Pradesh & Anr., [(2009) 1 SCC 69]* to contend that there can be no bar to the simultaneous continuance of a

criminal and civil proceeding, if the two arise from separate causes of action. Most importantly, it is contended that this Court, in exercise of its extraordinary jurisdiction under Section 482 of the Cr.P.C., cannot embark upon a mini-trial to weigh evidence, test the veracity of the defence documents, or appreciate rival factual contentions at the threshold stage and they pray for dismissal of the present criminal revisional application, being devoid of merit.

11. Having bestowed my anxious consideration upon the rival submissions advanced by the learned counsel for the respective parties, the pleadings on record, the statutory framework and the judicial precedents cited, I find that the primary question that falls for determination in the instant proceeding is,

> *whether the criminal proceeding and the charge sheet under Sections 420, 406 and 506 of the IPC against the petitioner can be legally quashed under Section 482 of the Cr.P.C on the premise that the dispute is purely civil in nature, that the petitioner is falsely implicated merely as a husband without specific allegations, and that the complaint suffers from suppression of the accused's reply to the demand notice, raising a monetary counter-claim?*

12. I must examine the parameters governing the exercise of inherent powers under Section 482 of the Cr. P.C for the proper determination of this question. The inherent jurisdiction of this Court under this question is undoubtedly wide, but it has to be exercised with circumspection and utmost care, sparingly, and only to prevent abuse

of judicial process or to secure the ends of justice. At the stage of quashing of a Charge Sheet, the Court is not expected to conduct a roving inquiry into the pros and cons of the case or to weigh the evidence as if it were sitting in appeal after a full-fledged trial. If the allegations in FIR, the statements of witnesses, and the materials collected during the investigation, taken at their face value, discloses the essential *prima facie* ingredients of cognizable offence(s), the criminal proceeding must not be nipped in the bud.

13. I have carefully examined the above referred judgments relied upon by the learned counsel for the petitioner, including *Chunduru Siva Ram Krishna (supra), S.W. Palanitkar (supra)* and *M.S. Banga (supra)*. While there can be no two opinions on the proposition that a mere breach of promise or subsequent failure to repay a loan gives rise to a civil action, the distinction between a civil dispute and the criminal offence of 'cheating' largely depends upon the intention of the accused at the very inception of the transaction.

14. In the present case, the materials collected during the investigation, specifically the seized bank passbooks verifying massive fund transfers totaling Rs.12,00,000/-, coupled with the allegations of dishonest inducement under the pretext of business set-up, medical emergencies and house repairs, followed by an outright refusal to acknowledge liability and threats of criminal intimidation through the local muscle man on November 30, 2021, takes the matter far beyond the pail of a simple, unadulterated breach of contract. The decisions cited by the petitioner are distinguishable on facts, as they applied to cases where

the ingredients of criminal offences were completely absent *ab initio*, whereas the case at hand bears distinct elements of active dishonest inducement and subsequent criminal intimidation supported by documentary seizures.

15. Furthermore, the contention regarding the 'suppression of material facts' based on the non-disclosure of lawyer's reply dated January 12, 2022 to the demand notice and the reliance placed on *Raymond Ltd. (supra)* does not commend itself to this Court as a ground for quashing inasmuch as the reply to the said demand notice embodies the self-serving, *ex post facto* defence of the accused persons, wherein a massive counter-claim of Rs. 25,89,140/- has been set up without furnishing any supporting contemporaneous documentary foundation or primary ledgers. To treat a dispute defence version or an unverified counter-claim raised in a reply notice as an absolute gospel truth at the Section 482 Cr.P.C. stage and consequently to throttle a criminal prosecution, would amount to doing precisely what the Hon'ble Supreme Court has repeatedly forbidden, namely conducting a mini-trial on affidavits.

16. On this score, the recent authoritative exposition of the Hon'ble Supreme Court in *Kathyayini (supra)* provides a clear answer. The Hon'ble Apex Court underscored that where the complaint and Charge Sheet materials disclose a *prima facie* case, the genuineness, credibility and veracity of the defence materials or rival versions must be tested exclusively at trial through cross-examination. The relevant observations of the Hon'ble Apex Court in *Kathyayini (supra)*, at

paragraph 23 of the report, being contextually apposite, are reproduced below: -

> ***"23.*** *……make it crystal clear that pendency of civil proceedings on the same subject matter, involving the same parties is no justification to quash the criminal proceedings if a prima facie case exists against the accused persons. ..***"**

17. Similarly, in *Anurag Bhatnagar (supra)*, the Hon'ble Supreme Court reiterated that even where an element of contract or commercial understanding exists, if the record discloses ingredients of dishonest inducement and criminal deception, the Courts must refrain from short-circuiting the criminal trial at the threshold. As regards the petitioner's reliance on the decision of *Naresh Aneja (supra)* concerning Section 506 of the IPC, I find that whether the expressions used during the altercation constitute criminal intimidation or were mere angry words spoken in the heat of the moment is a factual aspect to be tested by evidence during trial, and does not warrant interference at this stage.

18. As regards the petitioner's specific plea concerning his vicarious liability as the husband of the principal recipient of the funds, the Charge Sheet and the investigation records reveal that the financial inflows from the bank accounts of the complainant and her husband were directed into the banking channels linked to the domestic and familial nexus, and the allegations of intimidation and joint refusal encompass the household. Whether the petitioner shared the requisite *mens rea* to attract the said offences or whether he actively

participated in the inducement and subsequent threats are matters for evidence appreciation that must unfold during the trial before the learned Magistrate, and cannot be prematurely evaluated by this Revsional Court.

19. Viewed thus, the foundational arguments advanced on behalf of the petitioner fail to dislodge the *prima facie* case established by the statutory Charge Sheet and the supporting bank documentation, therefore, the question for determination is answered in negative, against the petitioner.

20. Accordingly, I hold that the criminal proceeding and the Charge Sheet no. 317 of 2022 arising out of Chinsurah P.S. Case no. 126 of 2022 do not warrant any interference or quashing under Section 482 of the Cr. P.C.

21. In view of the aforesaid discussions, findings and legal propositions, the instant revisional application, being C.R.R. 2372 of 2024 stands dismissed.

22. The Learned Chief Judicial Magistrate, Hooghly Sadar at Chinsurah is directed to proceed with the trial independently and dispose of it as expeditiously as possible in accordance with law.

23. Before parting with the record, it is explicitly clarified that any observations made upon the merits of the rival contentions or the evidentiary value of the documents collected during the investigation are strictly for the limited purpose of examining the sustainability of the prayer for quashing under Section 482 of the Cr. P.C.

24. Pending connected application(s), if any, are also disposed of accordingly.

25. The interim order granted by this Court, which was in force till September 18, 2026, stands vacated.

26. There shall be no order as to costs.

27. Let a copy of this judgment along with the Trial Court Records (TCR) be transmitted to the Learned Trial Court forthwith for necessary information and compliance.

28. Case diary, be returned to the Learned Counsel for the State.

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

(Uday Kumar, J.)

S.KUNDU