CGHC010371982026 2026:CGHC:42924-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRMP No. 2583 of 2026

- Jitendra Solanki S/o Shri Mahendra Solanki Aged About 48 Years R/o A-12, Nirupam Estate, Phase-1 Near Police Station Baghsewani, Hoshangabad Road District Bhopal Madhya Pradesh

... Petitioner

versus

1 - State Of Chhattisgarh Through - Station House Officer, Police Station City Kotwali Bemetara, District Bemetara, C.G.

2 - Shri Devratan Tapadia Proprietor - Govinda Traders, R/o Durg Road, Ward No. 17, Parshuram Ward, Bemetara, Police Station Tahsil And District Bemetara C.G.

... Respondents

For Petitioner	**:**	Ms. Surya Kawalkar Dangi, Advocate
For State	**:**	Mr. Ashish Shukla, Additional Advocate General

DB: Hon'ble Shri Justice Narendra Kumar Vyas &

Hon'ble Shri Justice Sudhir Kumar

Order on Board

05.10.2026

***Per* Narendra Kumar Vyas, J.**

1. The present Cr.M.P. has been filed by the petitioner under Section 528 of the Bharatiya Nagarik Suraksha Sanhita seeking quashing of FIR bearing Crime No. 149 of 2023 dated 15.03.2023, registered at Police Station Bemetara, District Bemetara (C.G.), and the consequential charge-sheet bearing No. 167 of 2023 dated 26.05.2023, arising out of

BHUMIKA ANGARE
Digitally signed by BHUMIKA ANGARE
Date: 2026.10.08 10:39:38 +0530

the said FIR, for commission of the offences punishable under Sections 406, 415 and 420 read with Section 34 of the Indian Penal (for short, ‘IPC’).

2. The prosecution case, in brief, is that the complainant M/s. Govinda Traders, Bemetara, alleged that an agreement was executed between M/s. Elephant Works Private Limited and M/s. Squaro Exim Private Limited for export of wheat to Bangladesh wherein M/s. Elephant Works Private Limited set a condition that upon payment of Rs. 55,00,000/-, he will arrange the requisite Letter of Credit (L.C.) for the said export. Pursuant to the said condition, an amount of Rs. 55,00,000/- was deposited by Govinda Traders, on behalf of M/s. Squaro Exim Private Limited, in the account of M/s. Elephant Works Private Limited. Subsequently, the L.C. furnished by the accused company was found to be a duplicate, and despite demand of original L.C. the petitioner has neither provided the same nor refunded the amount. On these allegations, the complainant lodged a report before the concerned Police Station on 15.03.2023, alleging cheating, criminal breach of trust and wrongful loss caused to him. On the basis of the said report, FIR was registered and investigation was taken up.

3. Learned counsel for the petitioner would submit that the cheques in question were handed over to respondent No. 2 merely by way of security and, upon dishonour thereof, respondent No. 2 has already filed a complaint under Section 138 of the Negotiable Instruments Act. She would further submit that the petitioner had already handed over the cheques to respondent No. 2 however, no material has been placed on record to establish whether the said cheques were actually encashed or not, though certain statements of witnesses were

recorded in the complaint case. She would further submit that the petitioner had preferred an application before the learned Judicial Magistrate First Class, Bemetara, seeking return of the aforesaid cheques, however, the said application was dismissed by the learned trial Court by recording a finding that this Court had no jurisdiction to pass any order on the grounds stated in the application filed by the petitioner/accused. She would further submit that the dispute in question is purely civil in nature and that the respondent No. 2 (complainant) has an efficacious remedy of instituting a civil suit and by lodging the FIR, the criminal law has been set into motion, and therefore, the present case warrants interference by this Court, thus he would pray for allowing the CRMP.

4. Learned counsel for the State would submit that the petitioner has failed to place on record any material to demonstrate whether the cheque which was handed over to respondent No. 2 by way of security has been encashed or not. He would further submit that the aforesaid circumstance, prima facie, indicates that the petitioner, with an intent to deceive and cheat respondent No. 2, had entered into a fraudulent agreement. He would further submit that the submission made by learned counsel for the petitioner that the dispute is purely civil in nature and, consequently, setting the criminal law into motion amounts to nothing but an abuse of process of law, is misconceived and devoid of merit. He would further submit that the allegations contained in the FIR, coupled with the material collected during investigation, disclose the commission of cognizable offences, and, therefore, the present petition deserves to be dismissed.

5. We have heard learned counsel for the parties.

6. It is well settled position of law that it is not necessary that the Court in a pure civil dispute where defence of civil dispute has been raised, criminal law should be stopped at the threshold in every case as it is dependable upon facts and circumstances of the case and prima facie conduct of the accused has to be looked into by the Court. The Hon'ble Supreme Court in case of ***Accamma Sam Jacob vs. The State of Karnataka & Another Etc.*** reported in ***2026 INSC 362***, has examined and held that the High Court while exercising its inherent jurisdiction should not travel the allegations contained in the complaint and material placed by the complainant by delving into the defense sought to be projected by the accused and it is not necessary that in every case where the defence has been taken by the accused though the civil liability has been given, the High Court should quash the proceedings at the initial stage and has held in paragraphs 52, 54 and 56 as under:-

> "52. In the present set of appeals, the proceedings were at a nascent stage. The Magistrate had merely exercised jurisdiction under Section 156(3) of CrPC and directed investigation by the police. It cannot be gainsaid that while exercising jurisdiction under Section 156(3) of CrPC, the Magistrate is required to merely peruse the application filed by the complainant and examine whether the facts disclosed therein prima facie disclose the necessary ingredients of cognizable offences requiring investigation by police. The Magistrate is not expected to undertake an exhaustive evaluation of evidence nor adjudicate upon the merits of the allegations. If the Magistrate arrives at the conclusion that prima facie a cognizable offence is disclosed, then he would be fully justified in directing the concerned SHO to register an FIR and proceed with investigation in accordance with law. The High Court, while exercising its inherent jurisdiction under Section 482 of CrPC, must remain circumspect in interfering with such an exercise of power and ought to intervene only where it is evident that the order lacks any legal foundation; suffers

> from perversity or that the same may result in failure of justice.
>
> 54. The facts in the case at hand manifest that the High Court proceeded to examine documents relied upon by the accused-respondents, including the sale deeds executed in their favour, and treated the same as determinative of the dispute and observed that the sale deeds must be cancelled and delivered up first, before the criminal law could be set into motion. Such an exercise was clearly beyond the permissible scope of scrutiny in a petition for quashing under Section 482 of CrPC. Consideration of defence material, including sale deeds or other title documents would necessarily involve adjudication on disputed questions of fact, which fall squarely within the domain of investigation and, if necessary, trial. Any such exercise at the stage of Section 156(3) of CrPC would amount to conducting a mini-trial and would be wholly impermissible. Permitting such defence material to be weighed at the threshold would frustrate and defeat the very purpose of directing an investigation by the police.
>
> 56. In the facts and circumstances noted above, it was not at all justified for the High Court to have quashed proceedings merely on the ground that the dispute appeared to be civil in nature. It is well settled that the mere existence of a civil remedy does not by itself bar criminal proceedings where the allegations prima facie disclose commission of a cognizable offence. By entering into an evaluation of the dispute on merits and proceeding to quash the order directing investigation, the High Court effectively stifled the investigative process at its inception. Such an approach runs contrary to the principles consistently laid down by this Court."

7. Having considered the submissions made by learned counsel for the parties, the material available on record, and the law applicable to the facts of the case, it is evident from the sequence of events that the petitioner was not acting with any bona fide intention to discharge his obligations as charge-sheet was filed on 26.05.2023, and more than three years have already been elapsed but no attempt was made by the petitioner to make good the default and the petitioner is deprived from huge amount of Rs. 55,00,000/-, continuation of proceedings

before the trial Court is necessary in view of the fact that there is no dispute about receipt of Rs. 55,00,000/- by the petitioner for obtaining L.C. for export of wheat.

8. Considering the fact that learned counsel for the petitioner has also not disputed that a substantial amount of Rs. 55,00,000/- has already been returned to respondent No. 2 and in view of the aforesaid circumstances, we are of the considered opinion that neither the registration of the FIR, nor filing of the charge-sheet pursuant thereto, nor the order passed by the learned Judicial Magistrate taking cognizance of the offence suffers from any illegality or infirmity warranting interference by this Court.

9. Before parting with the matter, it is pertinent to note that the petitioner had earlier preferred Cr.M.P. No. 486 of 2026, which was dismissed by the Division Bench of this Court vide order dated 13.02.2026 with a cost of Rs.5,000/-. Though this Court was inclined to impose further costs for misuse of the process of law but taking a lenient view, no additional cost is being imposed upon the petitioner.

10. However, considering the conduct of the petitioner in delaying the proceedings, the fact that the charge-sheet was filed on 26.05.2023 and more than three years have already been elapsed, and respondent No.2 continues to remain deprived of his legitimate dues, the learned Trial Court is directed to make an endeavour to conclude the trial within an outer limit of six months from the date of receipt of a copy of this order. In case the petitioner seeks to delay or avoid the proceedings, the learned Trial Court shall proceed in the matter against him in accordance with law.

11. With the aforesaid observation and direction, the instant Cr.M.P is disposed of.

Sd/-
(Narendra Kumar Vyas)
Judge

Sd/-
(Sudhir Kumar)
Judge

Bhumika