CHITRA SANJAY SONAWANE
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Criminal Revision Application No.141 of 2005

Chaudhary Abdul Majid Shahadat … Applicant.
Vs.
M/s Shree Metal Works & Ors. … Respondents.

Mr Digvijay S Kachare i/by Kuldeep Patil for respondent No.4.
Ms SE Phad, APP for the respondent / State.

Coram : R.N.Laddha, J.
Date : 17 January 2026.

P.C. :

None for the applicant.

2. Ms Ilsa Shaikh who is present in the Court has been appointed as an Advocate to espouse the cause for applicant. The legal fees to be paid by the High Court Legal Service Committee. The office to provide copy of the revision application and other relevant papers to the appointed Advocate.

3. Heard the learned Counsel for the parties and the learned APP for respondent /State. Perused the entire record and proceedings with their able assistance.

4. By the present criminal revision application, the applicant seeks to assail the legality and correctness of the order dated 12 October 2004 passed by the Additional Sessions Judge, Mumbai, in Revision Application No.108 of 2004, whereby respondents No.1 to 4 came to be discharged from the proceedings.

5. A perusal of the record reveals that respondents No.1 to 4 were arraigned as accused in CC No.2/S/2003 pending before the learned Metropolitan Magistrate, 15 Court, Mazgaon, Mumbai, pursuant to a complaint lodged by the present applicant who is the original complainant. In due course, the process was issued against respondents for the alleged commission of an offence punishable under Sections 420 of the IPC. The respondents herein thereafter preferred an application for discharge before the learned Metropolitan Magistrate. Upon hearing both sides, the learned Magistrate rejected the said application. Aggrieved thereby, the respondents filed revision application before the learned Additional Sessions Judge. The learned Additional Sessions Judge vide order dated 12 October 2004, allowed the revision application and discharged the respondents No.1 to 4. Being dissatisfied with the said

order the applicant/original complainant has preferred the present revision application.

6. Upon a careful scrutiny of the complaint, the material placed on record, and the impugned order, it is evident that the dispute essentially pertains to a commercial transaction involving delivery of goods on credit, wherein the payment is alleged to be outstanding. The factual matrix, even if accepted in its entirety, does not disclose the essential ingredients of the offence of cheating.

7. It is a settled proposition of law that, for an offence under Section 420 of the IPC to be made out, there must be a clear and specific allegation of deception practiced at the very inception of the transaction, accompanied by a fraudulent or dishonest intention to induce the complainant to part with property. In the present matter, the complaint is conspicuously bereft of any such foundational averment indicating that the transaction was vitiated by initial deceit or dishonest inducement. There is no assertion to suggest that the respondents harboured any fraudulent intent *ab initio,* nor is there any allegation that the delivery of goods was procured through misrepresentation or false promise.

Mere failure to honour a financial obligation or to pay the balance amount arising out of a commercial transaction, without more, does not constitute cheating and, at best, gives rise to a civil liability. The complaint, as drafted, reflects a routine business arrangement wherein goods were supplied with an expectation of payment at a later point of time. The grievance of the applicant is essentially in the nature of recovery of dues, which cannot be permitted to be dressed up as a criminal offence. Criminal law cannot be invoked as a tool for exerting pressure in purely contractual or commercial disputes. Allowing such prosecution to continue would amount to an abuse of the process of law.

8. In view of the above circumstances, and considering that the necessary ingredients of Section 420 of the IPC are entirely lacking, the learned Additional Sessions Judge, has rightly exercised revisional jurisdiction and correctly ordered the discharge of respondents No.1 to 4. The impugned order does not suffer from any perversity, illegality, or material irregularity warranting interference by this Court.

9. Accordingly, the criminal revision application stands dismissed.

[R.N.Laddha, J.]