IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 443 OF 2024

Sambhaji Balu Bhote And Ors. … Applicants
V/s.
The State of Maharashtra & Anr. … Respondents

Mr. Anirudha Lad a/w Mr. B. Joseph i/b Mr. KLT Law Associates for Applicants.

Mr. Yuvraj Narvankar a/w Mr. H. D. Chavan, Advocates for Respondent No. 2.

Mr. Sukanta Karmakar, APP for Respondent – State.

CORAM : ASHWIN D. BHOBE, J.

DATE : 4th FEBRUARY, 2026.

ORAL JUDGMENT :

1. Heard, Mr. Anirudha Lad, learned Advocate for the Applicants, Mr. Sukanta Karmakar, learned APP for the State and Mr. Yuvraj Narvankar for the Respondent No. 2.

2. By the present Application, filed under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.'), Applicants seek quashing of FIR bearing No.203 of 2023 registered by the

Shirgaon Parandwai Police Station, Pune (for short ‘impugned FIR”) under Sections 420, 504, 506, 427 r/w Section 34 of Indian Penal Code, 1860 (for short ‘IPC’) and the charge sheet, arising out of the impugned FIR.

3. Impugned FIR is registered based on the complaint dated 01.08.2023, lodged by the Respondent No. 2. Respondent No. 2 alleges that in the month of June 2022, he approached the Applicants for the purchase of their land bearing Gat No. 275 admeasuring 120 Gunthas, situated in the village at Parandwadi, Taluka- Maval, District-Pune (for short “said property”). Respondent No. 2 undertook the exercise of due diligence in respect of the said property, which revealed that the revenue records (7/12 extract) had an entry under Section 43 of the Maharashtra Tenancy and Agricultural Land Act, 1948, which was required to be removed to enable the sale of the said property. Upon negotiations, the Respondent No. 2 and the Applicants executed a Memorandum of Understanding dated 04.07.2022 (for short “MOU”) finalizing the terms of the proposed sale/purchase of the said property. The consideration amount for the said

property was fixed at Rs. 5,05,20,000/-, and the mode of payment was specified in the MOU. Possession of the said property was handed over to the Respondent No. 2 upon execution of the MOU. Respondent No. 2 claims to have handed over a cheque for Rs. 1,50,00,000/- to the Applicants towards security, whereas the Applicants claims the same was towards the payment of part consideration. The said cheque, upon presentation for payment, was returned dishonoured with endorsement “Account closed”. Disputes regarding the performance of the obligations under the MOU arose between the parties. Respondent No. 2 alleged the failure of the Applicants to obtain permission from the Collector to facilitate the sale of the said property, whereas the Applicant alleged non-payment of the consideration amount by the Respondent No. 2. Respondent No. 2 alleges that on 05.10.2022, he learnt of an agreement dated 08.05.2014, executed by the Applicants with a third party. Upon being confronted with the said prior agreement dated 08.05.2014, the Applicants denied it and contended that the agreement was cancelled well before the execution of the MOU. Applicants terminated the MOU vide notice dated 07.11.2022. Respondent No. 2, alleging the Applicants to have cheated the Respondent No.2, filed the complaint dated 01.08.2023.

4. Upon investigation, the Respondent No. 1 has filed the charge sheet.

5. Mr. Anirudha Lad, learned Advocate for the Applicants, submits that by the impugned FIR the Respondent No. 2 has made an attempt to convert what could at the best be a civil dispute into a criminal case, the intent and motive of the Respondent No.2 being to cause harassment to the Applicants and to pressurize the Applicants to sell the said property. He submits that the Respondent No.2 committed a default and breach of the terms of the MOU, resulting in the Applicants exercising their right to terminate the MOU by issuing a legal notice dated 07.11.2022. He submits that Respondent No.2 has instituted a Civil Suit against the Applicants seeking specific performance of the contract, i.e. the MOU, and for consequential reliefs. He submits that neither the impugned FIR / Complaint nor the charge-sheet indicates any cognizable offence being committed by the Applicants.

6. Mr. Sukanta Karmakar, learned APP for the State, submits that the Respondent No. 1 has acted in accordance with law by registering the FIR and, upon completion of the investigation, filing the charge-sheet.

7. Mr. Yuvraj Narvankar, Advocate for Respondent No. 2, reiterates the contents of the complaint dated 01.08.2023, to submit that there was disclosure of the commission of a cognizable offence. He, however, fairly submits that the Respondent No. 2 has indeed filed a civil suit seeking specific performance of the MOU, an injunction, and consequential reliefs, and that the suit is pending adjudication. He has tendered a photostat copy of the plaint in the said suit (which was taken on record vide order dated 19th January, 2026). He submits that mere filing of the civil suit would not dilute the allegations made by the Respondent No. 2 in the complaint, which, according to him, disclose commission of a cognizable offence by the Applicants. He submits that the mere institution of civil proceedings is not a ground for quashing the FIR. He relies on the decision of the Hon'ble Supreme Court in the

case of Punit Beriwala Vs. State of NCT of Delhi and Ors.[1]

8. From the rival contentions of the parties, the question that falls for consideration in this Application is whether the impugned FIR based on the complaint dated 01.08.2023 and the charge-sheet, disclose commission of a cognizable offence warranting registration of the impugned FIR under Sections 420, 504, 506, 427 r/w 34 of IPC?

9. Gist of the allegations in the impugned FIR and the charge sheet is that on 05.10.2022, the Respondent No.2 learnt of the existence of a prior agreement dated 08.05.2014, executed by the Applicants with a third party, as such a fraud being played by the Applicants on the Respondent No.2.

10. Facts of the execution of the MOU on 04.07.2022; possession of the said property being delivered by the Applicants and possession of the said being received to the Respondent No.2 in pursuance of the MOU; the terms and conditions of the MOU containing promises and reciprocal promises by the respective

1 2025 SCC OnLine SC 983.

parties; non-performance of the said obligations under the MOU giving rise to disputes between the Applicants and the Respondent No.2; the MOU being terminated by the Applicants and the Respondent No.2, instituting a Civil suit before the Court having jurisdiction seeking specific performance of the MOU, are not in dispute.

11. In the case of Rikhab Birani and another vs. State of Uttar Pradesh and Another[2], the Hon'ble Supreme Court, taking note of the Court being flooded with cases where Police register an FIR, conduct investigation and even file charge-sheet(s), in undeserving cases, explained the difference between a breach of contract and the criminal offence of cheating. In paragraph Nos.12 to 20, the Hon'ble Supreme Court, after relying on various decisions, has observed as under:-

> *" 12. Thereupon, the appellants, Rikhab Birani and Sadhna Birani, preferred a petition under Section 482 of the Cr.P.C. before the High Court, which was dismissed by the High Court, vide the impugned order dated 09.05.2024, notwithstanding the aforesaid facts, stating that at that stage, only a prima facie case was to be seen in the light of the law laid down by this Court.*
>
> *13. We are constrained to pass this detailed speaking order, as it is noticed that, notwithstanding the law clearly laid down by this Court on the difference between a breach of contract and the criminal offence of cheating, we are*

2 2025 SCC OnLine SC 823.

continuously flooded with cases where the police register an FIR, conduct investigation and even file chargesheet(s) in undeserving cases.

14. During the last couple of months, a number of judgments/orders have been pronounced by this Court, especially in cases arising from the State of Uttar Pradesh, deprecating the stance of the police as well as13. We are constrained to pass this detailed speaking order, as it is noticed that, notwithstanding the law clearly laid down by this Court on the difference between a breach of contract and the criminal offence of cheating, we are continuously flooded with cases where the police register an FIR, conduct investigation and even file chargesheet(s) in undeserving cases.

15. In Lalit Chaturvedi and Others v. State of Uttar Pradesh and Another, this Court quoted an earlier decision in Mohammed Ibrahim and Others v. State of Bihar and Another, wherein, referring to Section 420 of the IPC, it was observed that the offence under the said Section requires the following ingredients to be satisfied:

> *"18. Let us now examine whether the ingredients of an offence of cheating are made out. The essential ingredients of the offence of "cheating" are as follows:*
>
> > *(i) deception of a person either by making a false or misleading representation or by dishonest concealment or by any other act or omission;*
> >
> > *(ii) fraudulent or dishonest inducement of that person to either deliver any property or to consent to the retention thereof by any person or to intentionally induce that person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived; and*
> >
> > *(iii) such act or omission causing or is likely to cause damage or harm to that person in body, mind, reputation or property."*

16. Reference was also made to the decision in V.Y. Jose and

Another v. State of Gujarat and Another 9 and it was observed:

> *"7. Similar elucidation by this Court in "V.Y. Jose v. State of Gujarat", explicitly states that a contractual dispute or breach of contract per se should not lead to initiation of a criminal proceeding. The ingredient of 'cheating', as defined under Section 415 of the IPC, is existence of a fraudulent or dishonest intention of making initial promise or representation thereof, from the very beginning of the formation of contract. Further, in the absence of the averments made in the complaint petition wherefrom the ingredients of the offence can be found out, the High Court should not hesitate to exercise its jurisdiction under Section 482 of the Cr.P.C. Section 482 of the Cr.P.C. saves the inherent power of the High Court, as it serves a salutary purpose viz. a person should not undergo harassment of litigation for a number of years, when no criminal offence is made out. It is one thing to say that a case has been made out for trial and criminal proceedings should not be quashed, but another thing to say that a person must undergo a criminal trial despite the fact that no offence has been made out in them complaint. This Court in V.Y. Jose (supra) placed reliance on several earlier decisions in "Hira Lal Hari Lal Bhagwati v. CBI", "Indian Oil Corporation v. NEPC India Ltd.", "Vir Prakash Sharma v. Anil Kumar Agarwal" and "All Cargo Movers (I) (P) Ltd. v. Dhanesh Badarmal Jain"."*

17. This Court, in Delhi Race Club (1940) Limited and Others v. State of Uttar Pradesh and Another, highlighted the fine distinction between the offences of criminal breach of trust and cheating, observing that the two are antithetical in nature and cannot coexist simultaneously. Police officers and courts must carefully apply their minds to determine whether the allegations genuinely constitute the specific offence alleged.

18. In Kunti and Another v. State of Uttar Pradesh and Another, this Court referred to Sarabjit Kaur v. State of Punjab and Another wherein it was observed that a breach of contract does *not give rise to criminal prosecution for cheating unless fraudulent or dishonest intention is shown right at the beginning of the transaction. Merely on the allegation of failure to keep a promise will not be enough to initiate criminal proceedings. Thus, the dishonest intention on the part of the party who is alleged to have committed the offence of cheating should be established at the time of entering into the transaction with the complainant, otherwise the offence of cheating is not established or made out.*

19. It is the duty and obligation of the court to exercise a great deal of caution in issuing process, particularly when the matter is essentially of civil nature. The prevalent impression that civil remedies, being time-consuming, do not adequately protect the interests of creditors or lenders should be discouraged and rejected as criminal procedure cannot be used to apply pressure. Failure to do so results in the breakdown of the rule of law and amounts to misuse and abuse of the legal process."

20. In yet another case, again arising from criminal proceedings initiated in the State of Uttar Pradesh, this Court was constrained to note recurring cases being encountered wherein parties repeatedly attempted to invoke the jurisdiction of criminal courts by filing vexatious complaints, camouflaging allegations that are ex facie outrageous or are pure civil claims. These attempts must not be entertained and should be dismissed at the threshold. Reference was made to a judgment of this Court in Thermax Limited and Others v. K.M. Johny and Others, which held that courts should be watchful of the difference between civil and criminal wrongs, though there can be situations where the allegation may constitute both civil and criminal wrongs. Further, there has to be a conscious application of mind on these aspects by the Magistrate, as a summoning order has grave consequences of setting criminal proceedings in motion. Though the Magistrate is not required to record detailed reasons, there should be adequate evidence on record to set criminal proceedings into motion. The Magistrate should carefully scrutinize the evidence on record and may even put questions to the complainant/investigating officer etc. to elicit answers to find out the truth about the allegations. The summoning order has to be passed when the complaint or chargesheet discloses an offence and when there is material that supports and constitutes essential ingredients of the offence. The summoning order should not be passed lightly or as a matter of course.

12. In matters regarding registration or non-registration of First Information Report (FIR), what is necessary is only that the information given to the police must disclose the commission of a cognizable offence. The Hon’ble Supreme Court in the case of Lalita Kumari Vs. Government of Uttar Pradesh and Ors[3] has crystallized the law on the registration of FIR and the situations/ cases in which preliminary inquiry is permissible, as also the safeguards to be followed in such cases.

13. In the instant case, the subject matter of dispute between the parties apparently is the performance/non-performance of the obligation stipulated in the MOU. Though, the allegations of the Respondent No. 2 are that the Applicants have committed the offence of cheating, on the ground that the MOU was executed during the subsistence of a prior agreement, Applicants had with a third party, it is not the case of the Respondent No.2 of either the said third party has caused any obstruction to the Respondent No.2 based on the agreement dated 08.05.2014 or there being any impediment in performance of the conditions under the MOU.

3 2014 (2) SCC 1.

14. Indisputably, the Respondent No. 2 is before the Civil Court by way of a Civil Suit seeking the following reliefs:-

> *" a. Suit of the Plaintiff may kindly be decreed.*
>
> *b. Decree for specific performance of the Memorandum of Understanding dated 04.07.2022 may kindly be passed and the Defendant No.1 be ordered to execute registered Sale Deed in respect of the suit property in favour of the Plaintiff along consenting party being Defendant No.2 &3.*
>
> *c. The possession of the suit property may be handed over to the Plaintiff.*
>
> *d. It may be declared that Legal Notice dated 07.11.2022 terminating the MOU dated 04.07.2022 is illegal and void.*
>
> *e. The Defendants or any other persons through the Defendants may be restrained by an order of permanent injunction from selling, transferring, conveying the suit property to third party and/or from parting away with the possession of the suit property and/or altering the nature of the suit property.*
>
> *f. Alternatively if the court is not inclined to grant main reliefs, the Hon'ble Court be pleased to rescind the MOU dated 04.07.2022 and direct the Defendants to repay the consideration amount Rs. 67,00,000/- paid to Defendant No.1 and amount of Rs. 5,27,000/-paid to Defendant No. 2 and Rs. 65,73,800/- (Sixty Five Lakh Seventy three Thousand Eight Hundred only) incurred in developing the suit property along with interest of 18% p.a. till realization along with compensation of amount Rs. 5,00,00,000/-(Five Crore only).*
>
> *g. Any other just and equitable orders in the interest of justice may kindly be passed.*
>
> *h. Cost of the suit may be awarded to the plaintiff from the Defendant."*

15. Paragraph Nos. 31 to 37 of the plaint being relevant, the same are extracted herein below.

31. That had <u>time been the essence of the contract,</u> viz., the Memorandum of Understanding dated 04.07.2022, Defendants No.1 to 3 would not have accepted a cheque for an amount of 71,50,00,000/- (Rupees One Crore Fifty Lakhs only) in place of the stipulated 50% consideration amount of 72,52,60,000/- (Rupees Two Crores Fifty-Two Lakhs Sixty Thousand only), as mentioned under Clause 2 of the said MOU. Nor would the Defendants have requested for the consideration amount to be disbursed in parts or from time to time, as detailed in the preceding paragraphs. These facts unequivocally demonstrate that <u>time was never intended to be the essence of the contract.</u>

32. Moreover, never once the Defendants demanded remaining consideration amount, clearly showing the understanding between the parties that the whole intention was to get the title of the suit property clear and get the sale Deed registered and it was never intended to keep paying consideration amount without title being clear and so the scheduled consideration amount was never demanded by the Defendants.

33. The <u>Plaintiff has always performed and has always been ready and willing to perform his part of the obligations arising under the Memorandum of Understanding dated 04.07.2022</u>. <u>However, Defendants No.1 to 3 have failed to fulfill their obligations under the said MOU with respect to ensuring that the suit property had a clear and marketable title and delay in obtaining the36. Clause 4 of the agreement "MOU" clearly states that it is for the Defendants to get their title c necessary permission from the Collector, as expressly stipulated in the agreement. The said Collector's permission was eventually obtained by the Defendants on remaining amount, clearly showing the understanding between the the whole intention was to get the title of the suit property get the sale Deed registered and it was never intended to 22.11.2022, but this crucial and material fact was neither communicated nor disclosed to the Plaintiff at any point in time.</u>

34. It is significant to note that, as the Defendants were on the brink of receiving the aforesaid permission from the Collector, they, with mala fide intent, issued a legal notice dated 15.11.2022 to the Plaintiff, <u>purporting to terminate the MOU dated 04.07.2022</u>. The timing of this purported termination, preceding the actual grant of permission, clearly reflects the dishonest and calculated conduct of the Defendants, as well as their deliberate suppression of *material facts essential to the proper performance of the contract.*

35. The Plaintiff has performed and has always been ready and willing to perform his part of contract and that it is the Defendants who could not provide marketable title by not obtaining the permission of the Collector which being essential condition of the contract and without which the Sale of Suit Property cannot be done. <u>The Whole intention of the parties was to get the sale Deed executed after approval of the Collector and till then the suit property was to be devolved with the money of the Plaintiff.</u> Since the procedure of obtaining permission of the Collector is regular and intention of the Defendants seems genuine, t<u>he Plaintiff developed the suit land after the possession of the same was handed over by the Defendants.</u>

36. Clause 4 of the agreement "MOU" clearly states that it is for the Defendants to get their title clear within 3 months and execute a Sale Deed. The Defendants failed to do the same in time.

37. That later, the Plaintiff came that to know the Defendants have obtained the permission from collector to sell the Suit Property. The Plaintiff is ready to pay the remaining consideration amount to the Defendant No.1 and get the sale Deed registered of the suit property.

("emphasis supplied")

16. Though the plaint does not form a part of the impugned FIR or the charge sheet, the said document being placed on record by the author, i.e. the Respondent No.2, production of which was consented to by the Applicants, as such, the said document would fall in the category of an impeccable document, as such considered in this Application.

17. Perusal of the reliefs as also the relevant paras of the plaint referred to herein above, would demonstrate that the Respondent No.2 has neither sought any relief in the context of the agreement dated 08.05.2014 nor does the Respondent No.2 plead that the agreement dated 08.05.2014 is an impediment to the performance of the obligations of the MOU. On the contrary, Respondent No.2 is before the civil court seeking specific performance of the MOU under the provisions of the Specific Relief Act, 1963, on the ground that the MOU is legal and valid. Thus, in one breath, the Respondent No.2 alleges the MOU is a fraud and, on the other hand, seeks specific performance of the said MOU. The Respondent No.2 has attempted to give a criminal flavour to a civil dispute by converting a contractual dispute / breach of contract into criminal proceedings.

18. Records indicate that there are serious factual disputes which are of a civil nature, for which a civil suit is pending, allowing the Respondent No. 2 to pursue this criminal complaint would amount to an abuse of the process of law.

19. The Hon'ble Supreme Court in the case of Anukul Singh Vs. State of Uttar Pradesh and Another[4] in paragraph Nos. 17 to 20 has observed as follows :-

> ***17.*** *This Court has, in a long line of decisions, deprecated the tendency to convert civil disputes into criminal proceedings. In Indian Oil Corporation v. NEPC India Ltd., it was held that criminal law cannot be used as a tool to settle scores in commercial or contractual matters, and that such misuse amounts to abuse of process. The following paragraphs from the decision are apposite:*
>
> *"9. The principles, relevant to our purpose are:*
>
> *(i) A complaint can be quashed where the allegations made in 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 the case alleged against the accused. For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.*
>
> *(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with malafides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.*
>
> *(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.*

4 2025 SCC OnLine SC 2060

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out: (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceedings are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.

10. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable break down of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure though criminal prosecution should be deprecated and discouraged."

18. Similarly, in Inder Mohan Goswami v. State of Uttaranchal[18], it was emphasized that criminal *prosecution must not be permitted as an instrument of harassment or private vendetta. In Ganga Dhar Kalita v. State of Assam19, this Court again reiterated that criminal complaints in respect of property disputes of civil nature, filed solely to harass the accused or to exert pressure in civil litigation, constitute an abuse of process.*

19. Most recently, in Shailesh Kumar Singh @ Shailesh R. Singh v. State of Uttar Pradesh20, this Court disapproved the practice of using criminal proceedings as a substitute for civil remedies, observing that money recovery cannot be enforced through criminal prosecution where the dispute is essentially civil. The Court cautioned High Courts not to direct settlements in such matters but to apply the settled principles in Bhajan Lal. The following paragraphs are relevant in this context:

> *"9. What we have been able to understand is that there is an oral agreement between the parties. The Respondent No. 4 might have parted with some money in accordance with the oral agreement and it may be that the appellant - herein owes a particular amount to be paid to the Respondent No. 4. However, the question is whether prima facie any offence of cheating could be said to have been committed by the appellant.*
>
> *10. How many times the High Courts are to be reminded that to constitute an offence of cheating, there has to be something more than prima facie on record to indicate that the intention of the accused was to cheat the complainant right from the inception. The plain reading of the FIR does not disclose any element of criminality.*
>
> *11. The entire case is squarely covered by a recent pronouncement of this Court in the case of"Delhi Race Club (1940) Limited v. State of Uttar Pradesh", (2024) 10 SCC 690. In the said decision, the entire law as to what constitutes cheating and criminal breach of trust respectively has been exhaustively explained. It appears that this very decision was relied upon by the learned counsel appearing for the petitioner before the High Court. However, instead of looking into the matter on its own merits, the High Court thought fit to direct the petitioner to go for mediation and that too by making payment of Rs. 25,00,000/- to the 4th respondent as a condition precedent. We fail to understand why the High Court*

should undertake such exercise. The High Court may either allow the petition saying that no offence is disclosed or may reject the petition saying that no case for quashing is made out. Why should the High Court make an attempt to help the complainant to recover the amount due and payable by the accused. It is for the Civil Court or Commercial Court as the case may be to look into in a suit that may be filed for recovery of money or in any other proceedings, be it under the Arbitration Act, 1996 or under the provisions of the IB Code, 2016.

12. Why the High Court was not able to understand that the entire dispute between the parties is of a civil nature.

13. We also enquired with the learned counsel appearing for the Respondent No. 4 whether his client has filed any civil suit or has initiated any other proceedings for recovery of the money. It appears that no civil suit has been filed for recovery of money till this date. Money cannot be recovered, more particularly, in a civil dispute between the parties by filing a First Information Report and seeking the help of the Police. This amounts to abuse of the process of law.

14. We could have said many things but we refrain from observing anything further. If the Respondent No. 4 has to recover a particular amount, he may file a civil suit or seek any other appropriate remedy available to him in law. He cannot be permitted to take recourse of criminal proceedings.

15. We are quite disturbed by the manner in which the High Court has passed the impugned order. The High Court first directed the appellant to pay Rs. 25,00,000/- to the Respondent No. 4 and thereafter directed him to appear before the Mediation and Conciliation Centre for the purpose of settlement. That's not what is expected of a High Court to do in a Writ Petition filed under Article 226 of the Constitution or a miscellaneous application filed under Section 482 of the Criminal Procedure Code, 1973 for quashing of FIR or any other criminal proceedings. What is expected of the High Court is to look into the averments and the allegations levelled in the FIR along with the other material on record, if any. The High Court seems to have forgotten the well-settled principles as enunciated in the decision of this Court in the"State of Haryana v. Bhajan Lal", 1992 Supp (1) SCC 335"

20. Applying the above principles to the facts of the present case, it is manifest that the dispute - concerning repayment of loan money and the alleged coercion in execution of documents - is purely civil in character. The essential ingredients of cheating or forgery are not prima facie made out. The institution of multiple FIRs in quick succession, particularly after the appellant had already initiated lawful proceedings, reinforces the inference of mala fides.

20. In the case of Punit Beriwala Vs. State of NCT of Delhi and Ors. (supra) relied on Mr. Y. Narvankar, the Hon’ble Supreme Court in paragraph Nos. 28 has observed as follows: -

“28. It is trite law that mere institution of civil proceedings is not a ground for quashing the FIR or to hold that the dispute is merely a civil dispute. This Court in various judgments, has held that simply because there is a remedy provided for breach of contract, that does not by itself clothe the Court to conclude that civil remedy is the only remedy, and the initiation of criminal proceedings, in any manner, will be an abuse of the process of the court. This Court is of the view that because the offence was committed during a commercial transaction, it would not be sufficient to hold that the complaint did not warrant a further investigation and if necessary, a trial. [See : Syed Aksari Hadi Ali Augustine Imam v. State (Delhi Admin.), (2009) 5 SCC 528, Lee Kun Hee v. State of UP, (2012) 3 SCC 132 and Trisuns Chemicals v. Rajesh Aggarwal, (1999) 8 SCC 686].”

21. In the present case, there is nothing to show that at the very inception there was any intention on behalf of the Applicants to cheat, which is a condition precedent for an offence under section 420 of IPC. Similarly there is no material on record to show the ingredients of an offence under Sections 504, 506 and 427 of IPC. Believing the averments and allegations in the complaint dated 01.08.2023 and the charge sheet, the same do

not, in any event, disclose the essential ingredients of cheating or the other sections charged against the Applicants. Contents of MOU as also averments in the plaint indicate that Respondent No. 2, upon execution of the MOU, took over possession of the said property, started developing the same by leveling, making internal roads, barricades and fencing the said property, even constructing a shed and starting an office. It is trite law that even in a case where allegations are made regarding failure on the part of an accused to keep his promise, in the absence of a culpable intention at the time of making initial promise being absent, no offence under Section 420 of IPC, can be said to have been made out.

22. In the case of Paramjeet Batra vs. State of Uttarakhand and Others[5] the Hon'ble Supreme Court in paragraph No. 12 has observed as under:-

> *"12. While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High court. A complaint*

5 2013 (11) SCC 673.

> *disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High court should not hesitate to quash the criminal proceedings to prevent abuse of process of the court."*

23. In the case of Achin Gupta Vs. State of Haryana and Anr.[6], the Hon'ble Supreme Court in paragraphs Nos.19 and 20 has observed as under:-

> *" 19. It is now well settled that the power under Section 482 of the Cr. P.C. has to be exercised sparingly, carefully and with caution, only where such exercise is justified by the tests laid down in the Section itself. It is also well settled that Section 482 of the Cr. P.C. does not confer any new power on the High Court but only saves the inherent power, which the Court possessed before the enactment of the Criminal Procedure Code. There are three circumstances under which the inherent jurisdiction may be exercised, namely (i) to give effect to an order under the Code, (ii) to prevent abuse of the process of Court, and (iii) to otherwise secure the ends of justice.*
>
> *20. The investigation of an offence is the field exclusively reserved for the police officers, whose powers in that field are unfettered, so long as the power to investigate into the cognizable offence is legitimately exercised in strict compliance with the provisions under Chapter XII Cr.PC. While exercising powers under Section 482 CrPC. The court does not function as a court of appeal or revision. As noted above, the inherent jurisdiction under the section, although wide, yet should be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised ex debito justitiae to do real and substantial justice for the administration of which alone courts exist. The authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has the*

6 2024 SCC OnLine SC 759.

> *power to prevent such abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers, the court would be justified to quash any proceeding if it finds that the initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto."*

24. Thus, it is evident that the Respondent No. 2 used the criminal law as a tool to settle scores in respect of a contractual matter. Respondent No. 2 has adopted civil remedies to seek enforcement of his contractual rights. If the criminal proceedings are allowed to continue against the Applicants, they will constitute an abuse of process and result in a miscarriage of justice.

25. This Application is therefore allowed in terms of the prayer clause (a). Consequently, the impugned FIR bearing No.203 of 2023 registered by the Shirgaon Parandwai Police Station, Pune and the charge sheet arising out of the impugned FIR are quashed.

26. There shall be no orders as to costs.

27. It is clarified that the observations/findings given are in the context of quashing of the impugned FIR / charge-sheet.

(ASHWIN D. BHOBE, J.)