Date of reserved for orders :22-09-2026
Date of pronouncement : 04-11-2026
Date of uploading : 04-11-2026

APHC010467902022

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3604]**
(Special Original Jurisdiction)

WEDNESDAY, THE 4th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION NO: 7085/2022

Between:

1. NUSUMU VENKATA RAMBABU,, S/O.VENKATESWRLU, A-1 HINDU, AGED ABOUT 50 YRS, OCC- BUSINESS, R/O.41-1-36, NAGARATNAM BUILDING, RANGAIAHNAIDU STREET, KAKINADA, EAST GODAVARI DISTRICT
2. SMT.NUSUMU VENKATA BHARATHI,, W /O.N.V.RAMBABU, A-2 HINDU, AGED ABOUT 42 YRS, OCC- BUSINESS, R/O.41-1-36, NAGARATNAM BUILDING, RANGAIAHNAIDU STREET, KAKINADA, EAST GODAVARI DISTRICT.

...PETITIONER/ACCUSED(S)

AND

1. THE STATION HOUSE OFFICER, , C.I.D. POLICE STATION, AMARAVATHI, MANGALAGRI, GUNTUR DIST, REP. BY ITS SPL.PUBLIC PROSECUTOR C I D HIGH COURT OF A.P.AMARAVATI.
2. SMT SAILAJA GUDIWADA, , W/O.K.KOTESWARARAO, HINDU, AGED ABOUT 35 YRS, OCC- BUSINESS, R/O.D.NO.22-12-238, NEAR BIG MAJID, LALAPET, GUNTUR.

...RESPONDENT/COMPLAINANT(S):

Petition under Section 437/438/439/482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court pleased to call for records in connection with the case in Cr.No.11 of 2020 on the tile of the on the file of the C.I.D.P.S., Amaravathi, Mangalagri, Guntur District, which was registered for the alleged offences under sections 420,406,120-B 12./w 34 of IPC and to quash the same

against the petitioners herein as it is illegal, arbitrary, unjust and abuse of process of law and the allegations do not attract the ingredients of the alleged offences and to pass

IA NO: 1 OF 2022

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to dispense with the filing of the certified copies of the complaint in Cr.No.11of 2020 on the file of the C.I.D.P.S., Amaravathi, Mangalagri, Guntur District, which was registered for the alleged offences under sections 420, 506,120-B R/w 34 of IPC, for the present, in the interest of justice and pass

IA NO: 2 OF 2022

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to grant stay of all further proceedings in Cr.No.11of 2020 on the file of the C.I.D.P.S. Amaravathi, Mangalagri, Guntur District, in the interest of justice and pass

IA NO: 3 OF 2022

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to vacate the interim order passed in Crl. P. No. 7085 of 2022 dated 08.09.2022 and to pass

Counsel for the Petitioner/accused(S):

1. G L NAGESWAR RAO

Counsel for the Respondent/complainant(S):

1. SPL.PUBLIC PROSECUTOR FOR CID
2. ATCHUTUNI RAMA MOHAN RAO

The Court made the following:

HON'BLE SMT. JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION No.7085 OF 2022

ORDER:

This Criminal Petition is filed by the petitioners/ accused Nos.1 and 2 to quash the proceedings against them in Crime No.11 of 2020 of Crime Investigation Department Police Station, Amaravathi, Mangalagiri, Guntur District, for the offences punishable under Sections 420, 406 and 120-B read with Section 34 of the Indian Penal Code, 1860 (hereinafter referred to 'the Code').

2. The case of the petitioners is that the dispute is purely civil in nature and arose out of a commercial arrangement relating to investment in a business concern engaged in oil extraction and distribution, respondent No.2 agreed to invest in the business and the parties executed a limited liability/partnership arrangement, including a memorandum of understanding dated 28.02.2019, in the agreement rights and obligations of both the parties are clearly mentioned, default clauses are also incorporated for the consequences of non-performance. Further, the amounts were paid and received in the course of the business arrangement and that the dispute concerns the performance of contractual obligations, the return on investment and the allocation of business losses, they have not made any dishonest representation or not induced the respondent No.2 to part with money by deception, and the respondent No.2 gave report to exert pressure in a commercial dispute and that the allegations against them are false and have been deliberately foisted. Further, the essential ingredients of criminal breach of trust under Section 406 IPC are not disclosed because the complaint does not identify any specific entrustment of property followed by dishonest misappropriation or conversion, the ingredients of cheating under Section 420 IPC are also absent, particularly the dishonest intention at the time of the alleged inducement.

3. The case of the prosecution is that the respondent No.2 was introduced to the petitioners through a common friend and was informed that the petitioners had substantial experience in the oil business, the petitioners represented that a new business concern required funds and offered the respondent No.2 a partnership/investment arrangement with assured monthly returns, irrespective of profit or loss and having believed the words of the petitioner, respondent No.2 transferred amounts through RTGS and also paid certain amounts in cash. Further, the petitioners did not pay the promised returns, did not provide the accounts and documents sought by the respondent No.2 and did not return amounts to her. It also refers to the transfer or restructuring of business entities and alleges that the representations made to obtain the investment were dishonest.

4. Heard Sri G.L.Nageswara Rao, learned counsel for the petitioners, Smt.K.Priyanka Lakshmi, learned Assistant Public Prosecutor. No representation on behalf of respondent No.2 and as such, her arguments are closed. Perused petition, and other material available on record.

5. Learned counsel for the petitioners reiterated that the transaction is governed by written commercial documents, including a limited liability arrangement and a default clause, failure to honour a contractual promise does not, by itself, constitute cheating or criminal breach of trust and in the absence of specific allegations showing dishonest intention at the inception of the transaction or entrustment followed by dishonest misappropriation, continuation of the criminal proceedings would amount to abuse of process and relied upon the following judgments:

i) ***Rikhab Birani and another v. State of Uttar Pradesh and another***[1]

[1] 2025 (2) ALT Crl. 46

ii) ***Arshad Neyaz Khan v. State of Jharkhand and another***[2]

iii) Sripati Singh (since deceased) through his son Gaurav Singh v. State of Jharkhand and another[3]

6. Learned Assistant Public Prosecutor argued that the complaint contains specific allegations of inducement, investment and non-payment, and that the petitioners' reliance on the business agreement does not, by itself, exclude criminal liability, the investigating agency must be permitted to collect and examine the relevant material, trace the movement of funds and ascertain whether the transaction was entered into with dishonest intention, and the petition is premature because the investigation has not been completed and no final report has been filed.

7. The point for consideration is whether the proceedings in Crime No.11 of 2020 are liable to be quashed at the investigation stage, or whether the investigating agency should be permitted to complete the investigation in accordance with law.

8. As seen from the record, basing on the report of respondent No.2, a case in Crime No.11 of 2020 is registered of the offences stated supra against the petitioners. It is pertinent to note here that on 12.02.2020, the instant crime is registered and after issuing Section 41-A Cr.P.C notice dated 12.10.2021, petitioners filed the instant petition and obtained stay of all further proceedings vide order dated 08.09.2022. The substance of the report of the respondent No.2 is that the petitioners induced her to invest substantial amounts in a business concern by representing that the investment would yield assured monthly returns and that she would not be exposed to the business liabilities, and

[2] 2025 INSC 1151
[3] AIR 2021 SC 5732

the petitioners failed to honour the assurances, failed to provide the relevant accounts and documents, and did not return the amounts demanded.

9. The inherent jurisdiction under Section 482 Cr.P.C. is intended to prevent abuse of the process of a Court and to secure the ends of justice. It is, however, an exceptional jurisdiction and is not ordinarily exercised to conduct a mini-trial, assess the reliability of the prosecution material or decide disputed questions of fact while the investigation is still in progress. The principles stated by the Supreme Court in ***State of Haryana v. Bhajan Lal***[4], identify the limited categories in which criminal proceedings may be quashed. The Court must examine whether the allegations, taken at face value, disclose the ingredients of an offence; it should not substitute its own assessment of disputed evidence for the investigation.

10. It is settled that a commercial transaction or breach of contract does not automatically give rise to criminal liability. At the same time, the existence of a civil remedy or a written agreement does not bar criminal proceedings where the allegations, if taken at face value, disclose the commission of a criminal offence. In ***Indian Oil Corporation v. NEPC India Ltd.***[5], the Supreme Court cautioned against giving a criminal colour to a purely civil dispute, while also recognising that the mere existence of a civil dispute is not a ground to quash a case if the ingredients of a criminal offence are made out.

11. For an offence of cheating under Sections 415 and 420 IPC, the complaint must disclose deception and a dishonest or fraudulent intention at the time the inducement was made, which led the respondent No.2 to deliver property or to do or omit something causing or likely to cause the prescribed harm. A subsequent failure to fulfil a promise, without more, does not necessarily

[4]1992 Supp (1) SCC 335
[5](2006) 6 SCC 736

establish such intention. In ***Hridaya Ranjan Prasad Verma v. State of Bihar***[6], the Hon'ble Supreme Court explained the distinction between a mere breach of contract and cheating. Whether the alleged assurances were genuine business projections or were made dishonestly from the outset is, in the present case, a matter requiring examination of the surrounding circumstances and the material collected during investigation.

12. For criminal breach of trust under Sections 405 and 406 IPC, the essential requirements include entrustment of property or dominion over property and dishonest misappropriation, conversion, use or disposal of that property in violation of law or contract. The respondent No.2 and the documents will have to be examined to determine whether these elements are disclosed. The mere fact that money was invested in a business, or that the business did not produce the expected return, would not by itself establish criminal breach of trust. Conversely, the description of a payment as an investment does not conclusively exclude the offence if the necessary ingredients are otherwise alleged and supported.

13. In the judgment relied upon by the learned counsel for the petitioners in ***Arshad Neyaz Khan (supra)***, while considering the allegations under Sections 406, 420 and 120-B IPC arising from an agreement for sale, the Hon'ble Supreme Court held that the complaint did not disclose dishonest inducement at the inception or the entrustment and dishonest misappropriation required for the respective offences. It further explained that cheating and criminal breach of trust have distinct and antithetical foundations and cannot co-exist on the same set of facts in the manner alleged in that case. The decision does not mean that Sections 406 and 420 IPC can never be charged together in any case; the allegations and ingredients must be examined carefully in each case.

---

[6] (2000) 4 SCC 168

14. The limited liability arrangement and the default clause relied upon by the petitioners are relevant documents. They may assist in determining the nature of the transaction, the parties' obligations and the consequences of default. In ***Arshad Neyaz Khan*** (supra), the Hon'ble Supreme Court emphasised that a mere failure to perform a contractual promise or refund money does not, without facts showing dishonest intention at the inception, satisfy Section 420 IPC; nor does non-payment alone establish entrustment and dishonest misappropriation under Sections 405 and 406 IPC. In the other judgment relied upon by the petitioners in ***Rikhab Birani and Another (supra)***, Hon'ble Apex Court reiterated the distinction between a civil dispute arising out of breach of contract and a criminal offence of cheating or criminal breach of trust and the mere fact that a contractual transaction has failed, money has not been paid, or contractual obligations have not been fulfilled does not automatically constitute a criminal offence under Sections 420 or 406 of the Code, and for an offence of cheating under Section 420 of the Code, the prosecution must establish dishonest or fraudulent intention at the very inception of the transaction, when the agreement or contract was entered into and further, the allegations and material must disclose the essential ingredients of the particular offences alleged.

15. The other judgment in ***Sripati Singh (since deceased) through his son Gaurav Singh (supra)*** which principally concerns a cheque issued as security and the liability under Section 138 of the Negotiable Instruments Act when the underlying financial liability matures and its relevance to the present quash petition is limited and must be considered in that context; it is not, by itself, authority for quashing an FIR alleging cheating or criminal breach of trust. Further, while quashing the proceedings under Section 420 of the Code, Hon'ble Apex Court held that complaint under Section 138 of the N.I Act, is maintainable.

16. In this regard, it is to be noted that in ***M/s.Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra***[7], the Hon'ble Supreme Court cautioned that investigation into a cognizable offence should not ordinarily be interdicted and that the power to quash an FIR must be exercised sparingly. That principle must be read together with the categories identified in **Bhajan Lal** (supra), where quashing is permissible, inter alia, if the allegations taken at face value do not constitute an offence or if the proceedings are manifestly mala fide. The Court must balance both principles having regard to the specific allegations and documents in the present case.

17. In the present case at hand, as per the version of respondent No.2, the petitioners made representations about their experience in the oil business, offered an investment arrangement with assured returns, and obtained substantial sums. The petitioners obtained an interim order staying further proceedings during the pendency of this petition. Since the petitioners obtained stay of investigation, the investigating officer could not proceed further. Had really the contentions of the petitioners are true, truth would definitely come out and the investigating officer would definitely consider the material before filing final report.

18. It is apposite to mention here that it is well settled that, for the purpose of exercising power under Section 482 of the Code of Criminal Procedure to quash an FIR or a complaint, the High Court would have to proceed on the basis of the allegations made in the complaint or the documents accompanying it, as they stand, and has no jurisdiction to examine the correctness of the allegations. It is also well settled that, if the allegations made in the FIR, taken at face value and accepted in their entirety, do not constitute an offence, the criminal proceedings instituted on the basis of such FIR should be quashed. Further, the power to

---

[7](2021) 19 SCC 401

quash criminal proceedings should be exercised very sparingly and with circumspection, and only in rare cases. The court will not be justified in embarking upon an inquiry into the reliability or genuineness of the allegations made in the FIR or complaint. The extraordinary or inherent powers do not confer arbitrary jurisdiction on the Court to act according to its whims or caprice, as held by the Hon'ble Apex Court in ***State of Haryana and Others v. Bhajan Lal and Others***[8].

19. Further, in ***Mahmood Ali v. State of Uttar Pradesh***[9], the Hon'ble Supreme Court reiterated that, while considering a petition for quashing, the Court may examine the attending circumstances emerging from the record and is not required to confine itself mechanically to the recitals in the First Information Report alone. The principles laid down in ***Bhajan Lal*** (supra) also indicate the recognised categories in which the inherent power may be exercised, including cases where the allegations, even if taken at face value, do not constitute an offence; where the uncontroverted allegations and material collected do not disclose the commission of an offence; or where continuation of the proceedings would otherwise result in an abuse of the process of the Court. However, the power is not intended to conduct a meticulous appreciation of the evidence or to determine the truthfulness of disputed factual assertions at the stage of considering a petition for quashing.

20. The record clearly reveals that all the allegations made in the report, even if taken at face value and accepted, constitute a prima facie case against the petitioner along with the other accused. Having regard to the totality of the circumstances and the material placed before this Court, this Court is of the considered view that the case does not fall within any of the categories

[8] 1992 Supp 1 SCC 335
[9] 2023 INSC 681

warranting the exercise of inherent jurisdiction to quash the proceedings. The allegations and the material collected during investigation disclose a prima facie case requiring further investigation.

21. **In the result,** this Criminal Petition is dismissed.

As a sequel thereto, pending miscellaneous petitions, if any, shall stand closed.

SUNITHA GANDHAM, J

Date: 04.11.2026
knl