



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.8676 of 2023 (O&M)

Reserved on: 04.02.2026

Pronounced on: 10.03.2026

Deepak Goyal

.....Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Lalit Kumar Yadav, Advocate for the petitioner.

Mr. Parveen Kumar Aggarwal, Addl. A.G., Haryana.

Mr. Anil Kumar Saxena, Advocate for the respondent No.2.

SURYA PARTAP SINGH, J. (Oral):

The extraordinary jurisdiction vested in this Court, by virtue of Section 482 Cr.P.C. has been invoked by the petitioner through this petition. The petitioner has approached this Court with a prayer to quash the FIR No.0289 13.05.2022, for the commission of offence under Sections 34, 406, 420, 467, 468 and 471 [Section 201 added later on] of Indian Penal Code, Police Station City Bhiwani, District Bhiwani.

2. In nut-shell the facts emerging from record are that the petitioner is being prosecuted in a case arising out of above mentioned FIR as an accused. He is aggrieved of the above mentioned prosecution.

3 Heard.



4 It has been contended on behalf of petitioner that the present case on the face of it is an abuse of process of law. According to learned counsel for the petitioner the high handedness committed by the police authority can be judged from the fact that with regard to same allegations the complainant had approached the learned Court of learned Judicial Magistrate by filing a complaint, and in the above mentioned complaint an application under Section 156(3) Cr.P.C. was moved. As per learned counsel for the petitioner in the above mentioned complaint dated 03.04.2022 the status report from the police was called which was submitted on 20.04.2022. As per learned counsel for the petitioner while considering the facts and circumstances of the case, the learned Court of Judicial Magistrate did not find it appropriate to refer the matter to the police for registration of FIR and therefore, the case was posted for preliminary evidence of the petitioner. It has been further contended by learned counsel for the petitioner that in the above mentioned scenario the complainant-respondent No.2, hereinafter being referred to as 'respondent No.2' only, had withdrawn the above mentioned complaint on 24.05.2022.

5 It has been further contended by learned counsel for the petitioner that in the meantime in utter violence of settled principles of law, and in collusion with police authorities, the respondent No.2 approached the police authorities and got the FIR lodged on 13.05.2022. While claiming that allegations contained in the complaint, which has been withdrawn, and the FIR are identical, it has been contended by learned counsel for the petitioner that once the complaint has been dismissed by the Court of learned Judicial



Magistrate, any FIR with regard to the same set of facts could not have been registered by the police.

6 In the alternative, it has been contended by learned counsel for the petitioner that the bare contents of the complaint filed by the respondent No.2, which forms the basis of FIR in question, makes it abundantly clear that the dispute between the petitioner and the respondent No.2 is a dispute of civil nature arising out of business transactions between the two. According to learned counsel for the petitioner since there is no element of *mens rea*, for cheating, in the business dealings between the petitioner and the respondent No.2, and the issue between the two parties is with regard to settlement of account, and payment of dues, only civil remedy for the redressal of grievance of complainant is permissible. According to learned counsel for the petitioner by twisting the facts a different colour has been given to the dispute between the parties and the FIR has been lodged.

7 The above mentioned arguments of learned counsel for the petitioner have been controverted by learned State counsel, being assisted by the learned counsel for the respondent No.2. It has been contented by learned counsel for the respondent No.2 that in the present case the filing of FIR by the police is not illegal in any manner, whatsoever, as the police authority has got independent right to register the FIR, as and when it comes across that a cognizable offence has been committed by the petitioner.

8 With regard to above, the learned counsel for the respondent No.2 has contended that before filing of complaint in the Court of learned Judicial



Magistrate the respondent No.2 had filed a complaint before police authority and requested the police authority to take action against the petitioner, but for a long time when police authority did not take any action on the complaint of respondent No.2, the respondent No.2 filed a complaint. As per learned counsel for the respondent No.2, when the complaint was pending in the learned Court of Judicial Magistrate, on 13.05.2022 the FIR in question was lodged by the police authority, and therefore, the respondent No.2 in a *bona fide* manner withdrew the complaint on 24.05.2022. While claiming that no impropriety or violation of law has been committed by the respondent No.2, the learned counsel for the respondent No.2 has defended the action taken by the police, i.e. registering the FIR for the prosecution of petitioner.

9 It has also been contended by the learned counsel for the respondent No.2 that this argument of learned counsel for the petitioner has got no force that the dispute between the parties is with regard to settlement of account or payment of dues. It has also been controverted by learned counsel for the respondent No.2 that the dispute between the parties is a dispute of civil nature. With regard to above, the learned counsel for the respondent No.2 has argued that, in fact, the dispute between the petitioner and the respondent No.2 is not a plain dispute wherein there is an issue with regard to settlement of account. According to learned counsel for the petitioner, in fact, the sequence of events makes it abundantly clear that right from the very beginning the intentions of the petitioner were dishonest & *mala fide*, and that is why by issuing a cheque which was not honoured, they procured goods from the



respondent No.2, and thereafter, refused to make the payment.

10 The learned State counsel while controverting the arguments addressed by learned counsel for the petitioner has defended the action taken by the police by filing the FIR. According to learned State counsel in the present case the learned Court of Judicial Magistrate has sought report from Police Station, Civil Line Bhiwani whereas the FIR has been lodged in Police Station City Bhiwani. According to learned State counsel since the report was sought from a different police station, the authorities in Police Station City Bhiwani were not aware of the pendency of the complaint, or any other proceedings which might have already taken place, and thus, ignorant of the above mentioned development the FIR was lodged despite the fact that the complaint was already under consideration before the Court of learned Judicial Magistrate.

11 In addition to above, the learned State counsel has also pointed out that the sequence of events are also important as the complaint before the police authority, by the respondent No.2, was filed on 27.03.2022 but FIR on the above mentioned complaint was lodged on 13.05.2022 after thorough inquiry. According to learned State counsel, in the meanwhile, i.e. after 27.03.2022 the respondent No.2 filed a complaint in the Court of learned Judicial Magistrate on 03.04.2022 in which the report by police station Civil Line was filed on 24.04.2022, and thereafter, the complaint was withdrawn on 24.05.2022. While claiming that the action has been taken by Police Station City Bhiwani in a *bond fide* manner in accordance with law, the learned State



counsel has contended that there is no force in the contention raised on behalf of the petitioner. As per learned State counsel the present petition deserves dismissal.

12 The record has been perused carefully.

13. At the very outset, it is relevant to mention here that in the present case two questions arise:

- i) Whether the dispute pertaining to FIR in question is a dispute of civil nature?
- ii) As to whether the FIR can be lodged by the police with regard to commission of offence, qua which already a complaint has been dismissed by the Court of Judicial Magistrate?

14. As far as the first point is concerned to determine the same the contents of the FIR are of utmost importance. The contents of the FIR in question shows that the respondent No.2 had complained to the police that the complainant is a private limited company and 'Sh. Binit Agrawal' was authorized by the Board of Director to file the complaint against the petitioner on behalf of complainant-company. As per respondent No.2 the complainant-company was having business dealing with a company known as 'M/s Mahavir Oil Seed Agriculture Product Private Limited' and its constituents 'Sh. Deepak Goyal' and 'Smt. Sharda Devi'. According to complainant it had supplied goods i.e. Sampuran Palmolive Oil, Soybean Oil etc. to the company of petitioner and that as per usual practice the cheques were issued by the petitioner with regard to payment of price of above mentioned supplied goods.



The complainant has further alleged that subsequently it was found that the cheques issued by the petitioner-company were not honoured by the banker, and that despite repeated request the petitioner-company has failed to make the above mentioned payment, and thus, the complainant has been cheated.

15. With regard to above mentioned allegations, when the complaint was filed by the complainant in the Court of learned Judicial Magistrate, the learned Judicial Magistrate Bhiwani, vide order 07.04.2022, called a status report from the SHO Police Station Civil Lines Bhiwani. The above mentioned status report was submitted by the SHO Police Station Civil Line Bhiwani wherein it was mentioned that the dispute between the petitioner and the respondent No.2 was of civil nature.

16. In the light of above mentioned report if the factual matrix of the present case is analysed it transpires that the entire allegations contained in the FIR makes it abundantly clear that the only grievance of the respondent No.2-complainant is that, that with regard to the goods supplied by the respondent No.2, to the company of petitioner, payment was not made. Apparently, the above mentioned dispute is a dispute of civil nature and the only remedy available for the redressal of above mentioned grievance lies in the Civil Court.

17. In the present case another essential component to be taken into consideration is that, that for the commission of an offence under Section 420 IPC the presence of *mens rea* is essential. If the contents of the entire complaint are looked into, it transpires that there is no convincing ground



showing that there existed any *mens rea* on the part of petitioner to cheat with the complainant.

18. While dealing with the similar situation the Hon'ble Supreme Court of India in the case of 'Delhi Race Club (1940) Ltd. & Ors. Vs. State of Uttar Pradesh & Anr.' AIR 2024 (SC) 4531, has observed that prosecution of cases on charges of criminal breach of trust for failure to pay the consideration amount in case of sale of goods is flawed to the core. As per the Hon'ble Supreme Court of India there can be civil remedy for the non-payment of the consideration but no criminal complaint is maintainable.

19. Similarly, in the case of 'Veer Prakash Sharma Vs. Anil Kumar Agarwal and another', 2007(3)RCR (Criminal) 960, the Hon'ble Supreme Court of India has observed that non-payment or under payment of the price of the goods by itself does not amount to commission of offence of cheating or criminal breach of trust.

20. In the case of 'Hridaya Ranjan Verma and others Vs. State of Bihar and another', 200(4) SCC 168, it has been observed by the Hon'ble Supreme Court of India that it depends upon the intention of accused at the time to inducement which may be judged by his subsequent conduct but this subsequent conduct is not the sole test. According to the Hon'ble Supreme Court of India mere breach of contract cannot give rise to criminal prosecution for cheating unless fraudulent or dishonest intentions are shown right at the beginning of the transaction. It has been further observed that to hold a person guilty of cheating it is necessary to show that he had fraudulent or dishonest



intention at the time of making the promise and that on mere failure to keep the promise subsequently, this inference cannot be drawn that he had culpable intention right at the beginning.

21. Similarly in the case of 'Shailesh Kumar Singh alias Shailesh R. Singh Vs. State of Uttar Pradesh & Ors.' 2025(2) PLR 107, the Hon'ble Supreme Court of India has observed that mere failure to pay money in a civil dispute does not constitute a criminal offence and that filing of FIR in a civil dispute to recover money amounts to an abuse of process of law. The Hon'ble Supreme Court has further observed that civil dispute should be resolved through appropriate remedy and not through criminal proceedings.

22. Similar issue has been dealt with by the Hon'ble Supreme Court of India in the case of 'M/s Shikhar Chemicals Vs. The State of Uttar Pradesh & anr.' Special Leave to Appeal (Crl.) No.11445 of 2025, in the abovementioned case the Hon'ble Supreme Court of India has observed that criminal proceedings in a case of pure civil dispute constitute abuse of process of law.

23. If the factual matrix of the present case is analysed in the light of above discussed settled principles of law, from the contents of the FIR it transpires that apparently the dispute between the parties is a dispute of civil nature. The same observations were recorded in the report dated 20.04.2022 submitted by the SHO Police Station Civil Line Bhiwani. In addition to above, it is also apparent that there is no element of *mens rea* on the part of petitioner thus, the point of determination No.1 framed in this petition is hereby



answered accordingly, i.e. in favour of petitioner.

24. As far as, second point of determination is concerned there are two components pertaining to abovesaid point:-

- i) that the FIR was lodged in Police Station City Bhiwani and the Police Station City Bhiwani under the given mechanism, was not supposed to be aware of fact that the complainant had already filed a complaint in the Court of learned Judicial Magistrate, and in the above mentioned complaint the learned Judicial Magistrate had called for status report from the Police Station Civil Lines Bhiwani. Thus, in the absence of any knowledge the FIR has been lodged by presuming that a cognizable offence was made out on the basis of content of complaint. Thus, no fault can be attributed to the SHO Police Station City Bhiwani, who registered the FIR;
- ii) that the complaint filed by the complainant before the Court of learned Judicial Magistrate was withdrawn before the cognizance could have been taken there upon, by the learned Judicial Magistrate.

Thus, it is hereby held that on this ground the FIR does not deserve to be quashed, that with regard to same set of allegations the complaint was dismissed by the learned Judicial Magistrate.



25. As a sequel to findings on the above mentioned two points of determination it is hereby held that by twisting the facts a case of civil nature has been given the colour of criminal case, and the factual matrix of the transactions shows that filing of FIR by the respondent No.2 against the petitioner is nothing but an abuse of process of law. Hence, finding merit in the present petition the same is hereby **allowed** and qua petitioner the FIR in question, and all the proceedings, as a consequence to above mentioned FIR, are hereby quashed.

(SURYA PARTAP SINGH)
JUDGE

10.03.2026
Manoj Bhutani

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No