



2025:CGHC:21273-DB

**AFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**CrMP No. 402 of 2022**

Dr. K.V.K. Rao S/o Late K. Venkaiah Aged About 61 Years presently R/o Plot No. 100, High Court Colony, Street No. 5, Vanasthalipuram, Hayath Nagar, PS Vanasthalipuram, Tehsil and District Ranga Reddi, Telangana State 500070

**... Petitioner**

**versus**

**1** - State of Chhattisgarh Through Superintendent of Police Raipur, District Raipur Chhattisgarh.

**2** - Station House Officer P. S. Pandit Deen Dayal Upadhyay Nagar, (D D Nagar), District Raipur Chhattisgarh.

**3** - Anil Kumar Goyal S/o Satyanarayan Goyal, Aged About 55 Years R/o 76, Daldal Seoni, Mowa, Ram Manohar Lohiya Nagar, Near R.C.M. Godown, Pandari, Raipur, Chhattisgarh. 492001

**... Respondents**

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For Petitioner : Mr. Amit Buxy, Advocate

For Respondents : Mr. Shaleen Singh Baghel, Dy. Govt. Advocate  
No.1 & 2/State :

For Respondent : Mr. Navin Shukla, Advocate  
No.3

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**Hon'ble Shri Ramesh Sinha, Chief Justice**  
**Hon'ble Shri Arvind Kumar Verma, Judge**  
**Order on Board**

**Per Ramesh Sinha, Chief Justice**

**08/05/2025**

1. Heard Mr. Amit Buxy, learned counsel for the petitioner. Also heard Mr. Shaleen Singh Baghel, Dy. Govt. Advocate for the State and Mr. Navin Shukla, learned counsel appearing for respondent No.3 .
2. The present petition has been filed by the petitioner with the following relief(s):

*“(i) That, this Hon'ble Court may kindly be pleased to call for the entire records for its kind perusal.*

*(ii) That, this Hon'ble Court may kindly be pleased to quash FIR no. 0187/2019 dated 30/05/2019 registered at PS Deendayal Nagar (DD Nagar), Raipur and all the consequential proceedings against the petitioner.*

*(iii) Any other relief, as this Hon'ble Court may deem fit and proper may also be granted.”*

3. Brief facts of the case are that a written complaint was filed by Anil Kumar Goyal- respondent No.3, before the respondent no. 2, in which it was stated that his firm M/s. R.K. Engineering had entered into an agreement with the petitioner, proprietor of M/s. Kedhari

Traders for selling and purchasing of scrap material of power plant equipment on "as is where is basis" on 14/08/2018. The complaint stated that the petitioner in lieu of the said agreement took an amount of INR 7.5 crores and has only allowed the complainant to lift material worth an amount of 1.89 crores, thereafter, the petitioner has suddenly stopped providing the material, the complainant also alleged that the petitioner demanded for more money and upon asking for refund the petitioner denied of the same, thereby committing an offence under Sections 406 and 420 IPC.

4. A contractual agreement was entered into between the Firms of the present petitioner and the complainant on 14/08/2018 for selling and purchasing of Power Plant Equipment. In furtherance thereof, the complainant made defaulted payments violating the terms of payment of the agreement as per clause 6.
5. The acts of omission and commission leading to the breach of contract on the part of the purchaser. As the purchaser (complainant along with his two other partners) was obligated to make the payment of Rs. 10 crores by 15.09.2018 and another Rs.5 crores by 15.10.2018, as per the agreed payment schedules and could pay only Rs.7.5 crores, resulting in default of two subsequent installments. As time bound scheduled payment being the essence of the sale cum purchase agreement, the purchaser has committed

default in payment.

6. The total value of the agreement amounted INR 30 Crores and the payment was to be made by the complainant to the petitioner in a scheduled manner as per Clause 6 of the agreement Le. Payment Terms. That from the first instance the complainant and its firm made multiple defaults in payment of amount as agreed between the parties in the agreement. An amount of 7.5 crores was paid in installments however in default against the agreed terms. The petitioner allowed the complainant to lift the property as per the agreed terms of the contract and thereafter upon further default made by the complainant, a notice to terminate the agreement was sent by the present petitioner on 27/10/2018 as per clause 11(b) of the Agreement. That the notice of termination was acknowledged by the firm and partners of the complainant and there were various correspondences between the two parties in dispute.
7. Complainant defaulted in adhering to the payment schedule and other conditions which ultimately led to the termination of the Agreement and a notice of termination was sent on 27/10/2018 in terms of Clause 3(e) which also provided for forfeiture of the amount, and other relevant terms and conditions of the agreement and subsequently a Termination notice dated 20/11/2018.
8. It is also pertinent to mention here that even after the agreement was terminated on 20/11/2018, the complainant and his partner

namely Mr. Sabhir Aga continued to lift the material from the site without authorization and therefore, a complaint was filed under Section 378 of IPC against one of the partners namely Mr. Sabhir Aga, of the firm of the complainant on 05/12/2018 by the firm of the petitioner i.e. Kedhari Traders at Verna Police Station, Verna, Goa.

9. Pursuant to filing of the written complaint, a Legal Notice dated 11/02/2019 was sent to the petitioner by the counsel of the complainant. Raising questions and dispute on the agreement entered into between the parties and illegal termination of the contract thereby claiming compensation. However, no legal action to challenge the validity of termination has been initiated till date as per clause 15 and 16 of the Agreement.
10. The petitioner on 01/03/2019, through his representative legal counsel, replied to the Legal Notice dated 11/02/2019 stating in detail that the said termination of agreement was proper and legal as the complainant and its firm have defaulted the terms and conditions of the agreement as per clause 6 and in default thereof, the agreement has rightly been terminated as per clause 11. The reply to the Legal notice also specifically stated that no case of 406 and 420 IPC is made out as the said dispute is purely a contractual dispute and of civil nature.
11. The complainant has also alleged in his complaint that the GST has

not been paid by the petitioner, however the details of GST were not provided by the firm of the complainant even after repeated requests and thereafter the payment of GST has also been made by the present petitioner and the allegations of non-payment of GST is false.

12. Since the registration of FIR on 30/05/2019, no action or enquiry has been conducted by the respondent authorities and it is after a period of two and a half years that on 28/01/2022 the petitioner has been served with a notice u/s 41 of Cr.P.C to which the Petitioner has replied in detail and the fact that the dispute is purely a civil dispute is also in the knowledge of the respondent authorities. Registration of the offence is a gross misuse of process of law and deserves to be quashed for the ends of justice. Hence, the present petition.

13. Learned counsel for the petitioner would submit that the FIR does not disclose any cognizable offence against the petitioner as everything was done by the petitioner strictly in accordance with the agreed terms and conditions of the agreement dated 14.08.2019 between them. The FIR has been mechanically registered as a tool to falsely implicate the petitioner for pressurizing him to refund the amount which the complaint is not entitled to get back as per the terms of the Agreement. The complaint does not disclose any dishonesty, misrepresentation and breach of trust made by the

petitioner inducing the complainant to deliver any property. No act of the petitioner has caused any wrongful loss to the complainant and therefore no offence u/s 406 and 420 of the IPC is made out. He would further submit that the allegation of Sections 406 and 420 IPC against the present petitioner is false and made-up in order not to avail the civil remedies envisaged in the dispute settlement clause of the agreement and to take undue advantage of the Criminal Law. In fact there has been default on the part of complainant in complying with the terms and conditions of the agreement and making timely payments as per the schedule of payment mentioned in clause 6 of the agreement. The respondent no. 2 has registered the FIR without ascertaining correct and true facts in the matter and has proceeded without application of mind. As per the terms of the agreement, in case of any dispute arising out of the agreement, the exclusive jurisdiction of the Court is in Hyderabad, India as per clause 16 of the agreement and Goa in case of Arbitration as per clause 15 of the agreement. Therefore, the registration and further investigation of this FIR by DD Nagar PS, Raipur, Chhattisgarh is itself not maintainable. The petitioner has not committed any offence and has been falsely implicated just to settle scores and pressurize the petitioner to abandon the proceedings initiated by him against the complainant. He would also submit that as in the agreement dated 14.08.2019 between the petitioner and the complainant have specific clauses for dispute

resolution, the complainant is legally bound to exercise that rights. But without exercising that right, the complaint lodged this FIR with malafide intension to make the alleged civil dispute as criminal offence which is a misuse of law of the land for which the complaint should be punished as per law and the FIR may be quashed.

14. Learned State counsel would submit that once a complaint is received by the police and prima facie cognizable offence is made out, the police is bound to register the FIR and proceed in accordance with law. As such, the police has registered the FIR, investigated the matter.

15. In spite of the time being granted to the private respondent No.3 to file the return, the same has not been filed.

16. We have heard learned counsel for the parties and perused the material available on record including the impugned FIR.

17. The legal position on the issue of quashing of criminal proceedings is well-settled that the jurisdiction to quash a complaint, FIR or a charge-sheet should be exercised sparingly and only in exceptional cases and Courts should not ordinarily interfere with the investigations of cognizable offences. However, where the allegations made in the FIR or the complaint even if taken at their face value and accepted in their entirety do not *prima facie*



constitute any offence or make out a case against the accused, the FIR or the charge-sheet may be quashed in exercise of powers under Article 226 or inherent powers under Section 482 of the Cr.P.C.

18. In a recent judgment passed in the case of **Rikhab Birani & Another Vs. State of Uttar Pradesh & Another** reported in **2025 SCC Online SC 823**, the Hon'ble Supreme Court has reiterated the ratio laid down in the case of *Sharif Ahmed and Another Vs. State of Uttar Pradesh and Another* reported in **2024 SCC Online SC 726**, and has held thus in Para Nos.21 to 26 are as under :

“21. Lastly, we would refer to another detailed judgment of this Court in **Sharif Ahmed and Another Vs. State of Uttar Pradesh and Another** reported in **2024 SCC Online SC 726**, which draws out the ingredients required to establish an offence under Sections 406, 415, 420, 503 and 506 of the IPC in the following terms:

“36. An offence under Section 406 of the IPC requires entrustment, which carries the implication that a person handing over any property or on whose behalf the property is handed over, continues to be the owner of the said property. Further, the person handing over the property must have confidence in the person taking the property to create a fiduciary relationship between them. A normal transaction of sale or exchange of money/consideration does not amount to entrustment. Clearly, the charge/offence of Section 406 IPC is not even remotely made out.

37. The chargesheet states that the offence under Section 420 is not made out. The offence of cheating under Section

415 of the IPC requires dishonest inducement, delivering of a property as a result of the inducement, and damage or harm to the person so induced. The offence of cheating is established when the dishonest intention exists at the time when the contract or agreement is entered, for the essential ingredient of the offence of cheating consists of fraudulent or dishonest inducement of a person by deceiving him to deliver any property, to do or omit to do anything which he would not do or omit if he had not been deceived. As per the investigating officer, no fraudulent and dishonest inducement is made out or established at the time when the agreement was entered.

38. An offence of criminal intimidation arises when the accused intendeds to cause alarm to the victim, though it does not matter whether the victim is alarmed or not. The intention of the accused to cause alarm must be established by bringing evidence on record. The word ‘intimidate’ means to make timid or fearful, especially : to compel or deter by or as if by threats. The threat communicated or uttered by the person named in the chargesheet as an accused, should be uttered and communicated by the said person to threaten the victim for the purpose of influencing her mind. The word ‘threat’ refers to the intent to inflict punishment, loss or pain on the other. Injury involves doing an illegal act.

39. This Court in *Malik Taneja v. State of Karnataka*, had referred to Section 506 which prescribes punishment for the offence of ‘criminal intimidation’ as defined in Section 503 of the IPC, to observe that the offence under Section 503 requires that there must be an act of threatening another person with causing an injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested. This threat must be with the intent to cause alarm to the person threatened or to do any act which he is not legally bound to do, or omit to do an act which he is entitled to do. Mere expression of any words without any intent to cause alarm would not be sufficient to bring home an offence under Section 506 of the IPC. The material and evidence must be placed on record to show that the threat was made with an intent to cause alarm to the complainant, or to cause them to do, or omit to do an act. Considering the statutory mandate, offence under Section 506 is not shown even if we accept the allegation as correct.”

22. Significantly, this Court in *Sharif Ahmed (supra)*

cautioned courts to check such attempts of making out a criminal case on the basis of vague and ex facie false assertions.

23. Further, Sharif Ahmed (*supra*) expounds the legal position relating to the ingredients and contents of a chargesheet, drawing upon several earlier judgments of this Court which elucidate the contents of a police report under Section 173(2) of the Cr.P.C. It also clarifies the course of action to be adopted by the Magistrate when the chargesheet is found to be incomplete or vague in content. In this context, reference may be made to Sections 190 and 204 of the Cr.P.C., as well as Sections 211 to 213 and 218 of the Cr.P.C., which collectively govern the framing and contents of a charge. Some of the portions of this judgment are reproduced below:

“13. The question of the required details being complete must be understood in a way which gives effect to the true intent of the chargesheet under Section 173(2) of the Code. The requirement of “further evidence” or a “supplementary chargesheet” as referred to under Section 173(8) of the Code, is to make additions to a complete chargesheet,<sup>8</sup> and not to make up or reparate for a chargesheet which does not fulfil requirements of Section 173(2) of the Code. The chargesheet is complete when it refers to material and evidence sufficient to take cognizance and for the trial. The nature and standard of evidence to be elucidated in a chargesheet should *prima facie* show that an offence is established if the material and evidence is proven. The chargesheet is complete where a case is not exclusively dependent on further evidence. The trial can proceed on the basis of evidence and material placed on record with the chargesheet. This standard is not overly technical or fool-proof, but a pragmatic balance to protect the innocent from harassment due to delay as well as prolonged incarceration, and yet not curtail the right of the prosecution to forward further evidence in support of the charges.

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16. This Court in *Bhushan Kumar V. State (NCT of Delhi)* while referring to Sections 190 and 204 of the Code has observed that the expression “cognisance” in Section 190 merely means “becoming aware of”, and when used with reference to a court or a judge it connotes “to take notice of judicially”. It indicates the juncture at which the court or Magistrate takes judicial notice of the offence with a view to initiate proceedings in respect of such an offence. This is different from initiation of proceedings. Rather, it is a condition precedent to the initiation of proceedings by a Magistrate or judge. At this stage, the Magistrate has to keep in mind the averments in the complaint or the police report, and has to evaluate whether there is sufficient ground for initiation of proceedings. This is not the same as the consideration of sufficient grounds for conviction, as whether evidence is sufficient for supporting the conviction or not, can be determined only at the stage of trial, and not at the stage of cognisance. This aspect is important and will be subsequently referred to when we examine the decision of this Court in *K. Veeraswami v. Union of India*, and the observations therein which have been referred to on several occasions in other judgments.

17. Section 204 of the Code does not mandate the Magistrate to explicitly state the reasons for issue of summons and this is not a prerequisite for deciding the validity of the summons. Nevertheless, the requirement of the Code is that the summons is issued when it appears to the Magistrate that there is sufficient ground for proceeding against the accused. Summons is issued to the person against whom the legal proceedings have commenced. Wilful disobedience is liable to be punished under Section 174 of the Penal Code, 1860. As a sequitur, keeping in mind both the language of Section 204 of the Code and the penal consequences, the Magistrate is mandated to form an opinion as to whether there exists sufficient ground for summons to be issued. While deciding whether summons is to be issued to a person, the Magistrate can take into consideration any prima facie improbabilities arising in the case. The parameters on which a summoning order can be interfered with are well settled by the decision of this court in *Bhushan Kumar* (supra). The Magistrate in terms of Section 204 of the Code is required to exercise his judicial discretion with a degree of caution, even when he is not required to record reasons, on whether there is sufficient ground for proceeding. Proceedings initiated by a criminal court are generally not interfered with by High Courts, unless necessary to secure the ends of justice.

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19. Sections 211 to 213 and Section 2018 of the Code deal with the contents of the charge. The object and purpose of these provisions is to bring the nature of allegations against the accused to his notice. These allegations have to be proved and established by leading evidence. The accused should not be taken by surprise or be

unbeknownst so as to cause prejudice to him. The provisions of the Code also prescribe how to interpret the words used in the charge in terms of Section 214 of the Code, the effect of defects in the charge in terms of Section 215 of the Code, the power of the court to alter the charge and recall of the witnesses when a charge is altered in terms of Sections 216 and 217 of the Code.

20. There is an inherent connect between the chargesheet submitted under Section 173(2) of the Code, cognisance which is taken under Section 190 of the Code, issue of process and summoning of the accused under Section 204 of the Code, and thereupon issue of notice under Section 251 of the Code, or the charge in terms of Chapter XVII of the Code. The details set out in the chargesheet have a substantial impact on the efficacy of procedure at the subsequent stages. The chargesheet is integral to the process of taking cognisance, the issue of notice and framing of charge, being the only investigative document and evidence available to the court till that stage. Substantiated reasons and grounds for an offence being made in the chargesheet are a key resource for a Magistrate to evaluate whether there are sufficient grounds for taking cognisance, initiating proceedings, and then issuing notice, framing charges etc.

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26. The object and purpose of the police investigation is manifold. It includes the need to ensure transparent and free investigation to ascertain the facts, examine whether or not an offence is committed, identify the offender if an offence is committed, and to lay before the court the evidence which has been collected, the truth and correctness of which is thereupon decided by the court.

27. In *H.N. Rishbud and Inder Singh v. State of Delhi*, this Court notes that the process of investigation generally consists of : 1) proceeding to the concerned spot, 2) ascertainment of facts and circumstances, 3) discovery and arrest, 4) collection of evidence which includes examination of various persons, search of places and seizure of things, and 5) formation of an opinion on whether an offence is made out, and filing the chargesheet accordingly. The formation of opinion is therefore the culmination of several stages that an investigation goes through. This Court in its decision in *Abhinandan Jha v. Dinesh Mishra* states that the submission of the chargesheet or the final report is dependent on the nature of opinion formed, which is the final step in the investigation.

28. The final report has to be prepared with these aspects in mind and should show with sufficient particularity and clarity, the contravention of the law which is alleged. When the report complies with the said requirements, the court concerned should apply its mind whether or not to take cognisance and also proceed by issuing summons to the accused. While doing so, the court will take into account the statement of witnesses recorded under Section 161 of the Code and the documents placed on record by the investigating officer.

29. In case of any doubts or ambiguity arising in ascertaining the facts and evidence, the Magistrate can, before taking cognisance, call upon the investigating officer to clarify and give better particulars, order further investigation, or even record statements in terms of Section 202 of the Code.

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24. The chargesheet in the present case is bereft of particulars and details required and mandated in terms of Section 173(2) of the Cr.P.C. It merely reproduces the contents of the FIR which makes reference to the payments made as well as the allegation that in the revenue records, the godown in question was recorded in the name of Rakesh Birani, the son of the appellant, Rikhab Birani. It is noted that the appellant, Rikhab Birani, informed the complainant that Rakesh Birani had expired. The complainant had then requested refund of money, etc. However, the FIR does not state the material and evidence available and collected during the course of the investigation to establish the offences under Sections 420, 406, 354, 504 and 506 of the IPC. Clearly, the ingredients of the aforesaid are not established and made out.

25. In view of the aforesaid discussion, we set aside the impugned judgment/order and allow the present appeal quashing the FIR and the resultant proceedings, including the chargesheet.

26. We clarify that the present appeal only deals with the

question of criminal offence. We have not commented or made any observations on the civil rights of complainant-respondent No.2.

19. In the well notable judgment reported in **AIR 1992 SC 605 State of Haryana and others Vs. Ch. Bhajan Lal**, the Apex Court held that those guidelines should be exercised sparingly and that too in the rarest of rare cases. Guidelines are as follows:

“(1) Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety to do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the First Information Report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 156(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with

mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

20. In case of **Rupan Deol Bajaj v. K.P.S. Gill**; reported in (1995) **SCC (Cri) 1059**, **Rajesh Bajaj v. State of NCT of Delhi**; reported in (1999) **3 SCC 259** and **Medchl Chemicals & Pharma (P) Ltd.v. Biological E Ltd. & Ors**; reported in 2000 **SCC (Cri) 615**, the Apex Court clearly held that if a *prima facie* case is made out disclosing the ingredients of the offence, Court should not quash the complaint. However, it was held that if the allegations do not constitute any offence as alleged and appear to be patently absurd and improbable, Court should not hesitate to quash the complaint. The note of caution was reiterated that while considering such petitions the Courts should be very circumspect, conscious and careful. Thus, there is no controversy about the legal proposition that in case a *prima facie* case is made out, the FIR or the proceedings in consequence thereof cannot be quashed.
21. Very recently in **Neharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others** : 2021 **SCC OnLine SC 315**, the Apex Court has observed that the power of quashing should be exercised sparingly with circumspection in the rarest of rare cases. While examining an F.I.R./complaint, quashing of which is sought, the Court cannot inquire about the reliability, genuineness, or



otherwise of the allegations made in the F.I.R./complaint. The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the Court to be cautious. The Apex Court has emphasized that though the Court has the power to quash the F.I.R. in suitable cases, the Court, when it exercises power under Section 482 Cr.P.C., only has to consider whether or not the allegations of F.I.R. disclose the commission of a cognizable offence and is not required to consider the case on merit.

22. Therefore, it is very well settled that criminal proceedings maliciously instituted with ulterior motives can be quashed by this Court while exercising the power under Section 482 Cr.P.C.

23. In the present case, it appears that the dispute is commercial in nature leading to claims from either side and thus, from the overall scrutiny of the FIR it is clear that it is purely a dispute of civil nature between the complainant and the petitioner herein and there is a comprehensive remedy of arbitration clause available under the Regulations. Hon'ble Supreme Court dealing with the issue in **Vinod Natesan v. State of Kerala, (2019) 2 SCC 401** has observed that there was no criminality on part of the accused and a civil dispute is tried to be converted into a criminal dispute. Thus to continue the criminal proceedings against the accused would be an abuse of the process of law. Relevant Para of the said judgment is quoted as below:

“10. Having heard the appellant as party in person and the learned advocates appearing on behalf of the original accused as well as the State of Kerala and considering the judgment<sup>1</sup> and order passed by the High Court, we are of the opinion that the learned High Court has not committed any error in quashing the criminal proceedings initiated by the complainant. Even considering the allegations and averments made in the FIR and the case behalf of the appellant, it cannot be said that the ingredients of Sections 406 and 420 are at all satisfied. The dispute between the parties at the most can be said to be the civil dispute and it is tried to be converted into a criminal dispute. Therefore, we are also of the opinion that continuing the criminal proceedings against the accused will be an abuse of process of law and, therefore, the High Court has rightly quashed the criminal proceedings. Merely because the original accused might not have paid the amount due and payable under the agreement or might not have paid the amount in lieu of month's notice before terminating the agreement by itself cannot be said to be a cheating and/or having committed offence under Sections 406 and 420 IPC as alleged. We are in complete agreement with the view taken by the High Court.”

24. Recently, in **Sachin Garg v. State of U.P., 2024 SCC OnLine SC**

**82** the Apex Court reiterated its view that a commercial dispute, which ought to have been resolved through the forum of Civil Court has been given criminal colour by lifting from the penal code certain words or phrases and implanting them in a criminal complaint. Relevant para of the said judgment is quoted as below:-

“20. While it is true that at the stage of issuing summons a magistrate only needs to be satisfied with a prima facie case for taking cognizance, the duty of the magistrate is also to be satisfied whether there is sufficient ground for proceeding, as has been held in the case of Jagdish Ram (supra). The same proposition of law has been laid down in the case of Pepsi Foods Ltd. v. Special Judicial Magistrate[(1998) 5 SCC 749]. The learned Magistrate's order issuing summons records the background of the case in rather longish detail but reflects his satisfaction in a cryptic manner. At the stage of issue of summons, detailed reasoning as to why a Magistrate is issuing summons, however, is not necessary. But in this case, we are satisfied

that the allegations made by the complainant do not give rise to the offences for which the appellant has been summoned for trial. A commercial dispute, which ought to have been resolved through the forum of Civil Court has been given criminal colour by lifting from the penal code certain words or phrases and implanting them in a criminal complaint. The learned Magistrate here failed to apply his mind in issuing summons and the High Court also failed to exercise its jurisdiction under Section 482 of the 1973 Code to prevent abuse of the power of the Criminal Court.

21. It is true that the appellant could seek discharge in course of the proceeding itself before the concerned Court, but here we find that nocase at all has been made out that would justify invoking the machinery of the Criminal Courts. The dispute, per se, is commercial in nature having no element of criminality.”

25. Accordingly, the instant petition is allowed. The impugned First Information Report No.0187/2019 registered at Police Station Deendalayi Nagar, District Raipur, CG for the offence punishable under Sections 420 and 406 of IPC against the petitioner and entire criminal proceedings pursuant to impugned FIR are hereby quashed.

Sd/-

(Arvind Kumar Verma)  
**Judge**

Sd/-

(Ramesh Sinha)  
**Chief Justice**

Vasant

**Head Note**

“When there is a comprehensive remedy of arbitration clause under the Regulations, a case which is of civil dispute cannot be converted into a criminal dispute, it would be an abuse of the process of law.”

“जब विनियमों के अंतर्गत मध्यस्थम् खंड का व्यापक उपचार मौजूद हो, तब सिविल विवाद का मामला आपराधिक विवाद में परिवर्तित नहीं किया जा सकता, यह कानून की प्रक्रिया का दुरुपयोग होगा।”