

**IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
* HONOURABLE SRI JUSTICE HARINATH.N**

**+ CRIMINAL PETITION NO: 4960 OF 2025
% 06.08.2025**

Between:

1.VEMULAPALLI SRIDHAR BABU, S/O. V.SUBHAS CHANDRA
BOSE HINDU, AGED 45 YEARS, MANAGING PARTNER, M/S
SNEHA ANALYTICS SCIENTIFICS, R/O. 49-89-1/1. LALITHA
NAGAR, AKKAYYAPALEM, VISAKHAPATNAM.

...Petitioner/Accuse

AND

1.THE STATE OF ANDHRA PRADESH, REP BY ITS PUBLIC
PROSECUTOR, AP HIGH COURT, AMARAVATHI.

2.NEERAJ JAIN, S/O. VINOD JAIN, AGE 41 YEARS, R/O. NEW
DELHI, C/O. M/S. LOTUS INTERTRADE PVT LTD
SWAYAMSEWA SOCIETY CGHS, JHIMIL COLONY, EAST
DELHI-110095.

...Respondents/Complaints

Counsel for the Petitioner/accused:

1.RAMAKRISHNA AKURATHI

Counsel for the Respondent/complainant(S):

1.PUBLIC PROSECUTOR

The Court made the following:

<Gist:

>Head Note:

? Cases referred:

1. (2005) 10 SCC 228
2. 2005 (2) ALD (CrI.) (NOC) 17 (AP)
3. 2024 (10) SCC 690

This Court made the following :

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- 1.THE STATE OF ANDHRA PRADESH, REP BY ITS PUBLIC PROSECUTOR, AP HIGH COURT, AMARAVATHI.
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...Respondents/Complaints

DATE OF ORDER PRONOUNCED: 06.08.2025

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE HARINATH.N

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
2. Whether the copies of order may be marked to Law Reporters/Journals? Yes/No
3. Whether Your Lordships wish to see the fair copy of the order? Yes/No

JUSTICE HARINATH.N

APHC010231302025



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

[3457]

WEDNESDAY, THE SIXTH DAY OF AUGUST
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE HARINATH.N

CRIMINAL PETITION NO: 4960/2025

Between:

1.VEMULAPALLI SRIDHAR BABU, S/O. V.SUBHAS CHANDRA
BOSE HINDU, AGED 45 YEARS, MANAGING PARTNER, M/S
SNEHA ANALYTICS SCIENTIFICS, R/O. 49-89-1/1. LALITHA
NAGAR, AKKAYYAPALEM, VISAKHAPATNAM.

...PETITIONER/ACCUSED

AND

1.THE STATE OF ANDHRA PRADESH, REP BY ITS PUBLIC
PROSECUTOR, AP HIGH COURT, AMARAVATHI.
2.NEERAJ JAIN, S/O. VINOD JAIN, AGE 41 YEARS, R/O. NEW
DELHI, C/O. M/S. LOTUS INTERTRADE PVT LTD
SWAYAMSEWA SOCIETY CGHS, JHIMIL COLONY, EAST
DELHI-110095.

...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 CourtPleased to call for the
records and quash the proceedings against the Petitioner/Accused No.
1 in CC. No. 2079 of 2024 on the File of the Court of the Chief
Metropolitan Magistrate Visakhapatnam in the interest of justice and
pass

IA NO: 1 OF 2025

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 filing of the original certified copy of CC. No. 2079 of 2024 on the File of the Court of the Chief Metropolitan Magistrate Visakhapatnam before this Hon'ble Court pending disposal of the main CRLP.

IA NO: 2 OF 2025

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 against the Petitioner/Accused No. 1 including appearance in C.C. No. 2079 of 2024 on the File of the Court of the Chief Metropolitan Magistrate, Visakhapatnam. Pending disposal of the criminal petition in this Hon'ble Court.

Counsel for the Petitioner/accused:

1.RAMAKRISHNA AKURATHI

Counsel for the Respondent/complainant(S):

1.PUBLIC PROSECUTOR

The Court made the following:

THE HON'BLE SRI JUSTICE HARINATH. N**CRIMINAL PETITION No.4960 OF 2025****ORDER :**

1. The petitioner is seeking quash of CC.No.2079 of 2024 on the file of Chief Metropolitan Magistrate, Visakhapatnam. The petitioner is facing trial for alleged offence under Section 406, 420, 120-B read with 34 of IPC.
2. The learned counsel for the petitioner submits that the petitioner and the 2nd respondent entered into an agreement for sale and purchase of Indonesian steam coal vide contract No.LIPL-SAS/01/I/2018. The 2nd respondent is the seller and the petitioner is the buyer as per the agreement. The agreement was entered on 24.01.2018.
3. It is submitted that the petitioner also made payment of rupees one crore only to the 2nd respondent on signing of the agreement and also issued post dated cheques in anticipation of supply of coal by the 2nd respondent. It is also submitted that the supply of coal and purchase of coal could not materialize and that the petitioner failed to make payment of Rs.10,23,22,100/- towards cost of material and demurrage to a tune of Rs.73,00,000/-.

4. It is alleged that the petitioner conspired to cheat the 2nd respondent by getting the material delivered and subsequently selling it in the market and also not paying up the 2nd respondent the amounts due towards the supplies. Alleging that the petitioner and others have cheated the 2nd respondent, the complaint was filed.
5. The police after investigation filed a charge sheet by holding that the petitioner in collusion with others have violated Article 3 of the Sale Purchase Agreement and as such caused huge loss to the 2nd respondent and held that liable for punishment for offence under Section 420, 406, 120-B read with 34 of IPC.
6. The learned counsel for petitioner places reliance on **Anil Mahajan Vs. Bhor Industries Ltd and another**¹, the Hon'ble Supreme Court held that when there is a dispute between the parties arising out of a transaction involving passing of valuable properties between them, the aggrieved person may have a right to sue for damages or compensation. It was held that when the parties entered into an agreement and when one party fails to discharge the contractual obligation, the aggrieved party could have to invoke the civil remedies.

¹ (2005) 10 SCC 228

7. The learned counsel for petitioner also places reliance on **Chava Venu and another Vs. State of A.P.and another**², this Court held that when the disputes are civil in nature continuation of criminal proceedings under Section 420 of IPC and quashed the case.
8. Notice sent to the 2nd respondent was returned un-served with an endorsement refused. Hence, this Court is proceeding further as the 2nd respondent has not evinced any interest in pursuing the matter.
9. Heard the learned counsel for the petitioner and the learned Assistant Public Prosecutor for the State. Perused the material on record.
10. The agreement of sale and purchase of Indonesian Steam Coal dated 24.01.2018 is entered between Lotus Inter Trade Private Limited and Sneha Analytics and Scientific. The petitioner and the 2nd respondent have signed as authorized signatories for the said agreement.
11. Article 16 of the Agreement provides for a dispute resolution mechanism. The parties would have to invoke the arbitration clause for redressing their grievances or disputes which are arising out of or in connection with the agreement.

² 2005 (2) ALD (CrI.) (NOC) 17 (AP)

12. On facts, admittedly the contractual obligation is allegedly not complied by the petitioner. On the contrary the petitioner submits that non-payment for the material supplied is completely a different aspect and that the petitioner cannot be charged off offences under Section 406 and 420 of IPC having paid an amount of rupees one crore well in advance even before the supply commenced.
13. It is evident that the disputes arose between the petitioner and the 2nd respondent on account of an agreement regarding supply and purchase of coal. Such of those disputes would have to be resolved by invoking the dispute resolution clause of the agreement.
14. When the disputes are arising out of a contract the same cannot be given a criminal hue for maintaining the complaint. The disputes between the petitioner and the 2nd respondent are purely arising out of non-compliance of the contractual obligations. The remedy for resolution of such dispute is certainly not a criminal complaint and the parties would have to invoke the jurisdiction of the competent authority under the agreement.
15. At any rate, the averments of the complaint would reveal that commercial transactions and disputes relating to the same are given a criminal hue. The Hon'ble Supreme Court in **Delhi Race**

Club (1940) Ltd and others Vs. State of U.P and another³,

exhaustively held as to what would constitute criminal breach of trust and cheating. At para 30 the Hon'ble Supreme Court held as follows ;

30. The distinction between mere breach of contract and the offence of criminal breach of trust and cheating is a fine one. In case of cheating, the intention of the accused at the time of inducement should be looked into which may be judged by a subsequent conduct, but for this, the subsequent conduct is not the sole test. Mere breach of contract cannot give rise to a criminal prosecution for cheating unless fraudulent or dishonest intention is shown right from the beginning of the transaction i.e. the time when the offence is said to have been committed. Therefore, it is this intention, which is the gist of the offence. Whereas, for the criminal breach of trust, the property must have been entrusted to the accused or he must have dominion over it. The property in respect of which the offence of breach of trust has been committed must be either the property of some person other than the accused or the beneficial interest in or ownership' of it must be of some other person. The accused must hold that property on trust of such other person. Although the offence, i.e. the offence of breach of trust and cheating involve dishonest intention, yet they are mutually exclusive and different in basic concept. There is a distinction between criminal breach of trust and cheating. For cheating, criminal intention is necessary at the time of making a false or misleading representation i.e., since inception. In criminal breach of trust, mere proof of entrustment is sufficient. Thus, in case of criminal breach of trust, the offender is lawfully entrusted with the property, and he dishonestly misappropriated the same. Whereas, in case of cheating, the offender fraudulently or dishonestly induces a person by deceiving him to deliver any property. In such a situation, both the offences cannot co-exist simultaneously.

16. On the facts of this case, the averments of the complaint or the charge sheet cannot imply offences under Section 406 or 420 of

³ 2024 (10) SCC 690

IPC. On these considerations, this Court is of the considered view that CC.No.2079 of 2024 on the file of Chief Metropolitan Magistrate, Visakhapatnam deserves to be quashed.

17. Accordingly, the criminal petition is allowed and CC.No.2079 of 2024 on the file of Chief Metropolitan Magistrate, Visakhapatnam is hereby quashed against the petitioner.

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

JUSTICE HARINATH.N

Dated 06.08.2025
KGM

THE HON'BLE SRI JUSTICE HARINATH. N

CRIMINAL PETITION No.4960 OF 2025

Dated 06.08.2025

KGM