



2026:CGHC:21623-DB

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRMP No. 738 of 2025**

1 - Harishankar Jharray S/o Parasram Sonkar Aged About 62 Years R/o Basantpur Chowk Rajnandgaon, District Rajnandgaon (C.G.) (Accused)

2 - Daduram Sonkar S/o Parasram Sonkar Aged About 58 Years R/o Lakholi Naka, Chowk In Front Muktidham P.S Basantpur Rajnandgaon, District Rajnandgaon (C.G.) Present Address - Village Mundgaon Police Station Dongargarh District Rajnandgaon (C.G.)

3 - Ganesh Ram Sonkar S/o Late Ram Gulal Sonkar Aged About 58 Years R/o Lakholi Naka, In Front Muktidham P.S Basantpur Rajnandgaon, District Rajnandgaon (C.G.)

4 - Parasram Sonkar S/o Parsadi Sonkar Aged About 85 Years R/o Lakholi Naka, In Front Muktidham P.S Basantpur Rajnandgaon, District Rajnandgaon (C.G.)

... Petitioner(s)**versus**

1 - State Of Chhattisgarh Through The Police Station Basantpur, District - Rajnandgaon (C.G.)

2 - Indrakumar Adani S/o Baksaram Adani Aged About 54 Years R/o. Lalbagh Sindhi Colony Gali No.12 P.S Basantpur Rajnandgaon, District - Rajnandgaon (C.G.)

... Respondent(s)

For Petitioner(s)	: Mr. Aditya Bhardwaj, Advocate
For State	: Mr. Ashish Shukla, A.A.G.
For Respondent No. 2	: Ms. Shivali Dubey, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

08-05-2026

1. Heard Mr. Aditya Bhardwaj, learned counsel for the petitioner. Also heard Mr. Ashish Shukla, Addl. Advocate General for the Respondent/ State as well as Ms. Shivali Dubey, learned counsel for the Respondent No. 2.
2. The petitioners have filed the present petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 with the following prayer(s):-

“i. Quash the Charge Sheet No. 20/2025 dated 27.01.2025 and cognizance order of the impugned chargesheet dated 28.01.2025 and all consequential proceedings in FIR No. 539/2024, pending before the Judicial Magistrate First Class, Rajnandgaon (C.G.), registered as Criminal Case No. 232/2025 under Sections 420, 120(B) IPC.

ii. The Hon'ble Court may kindly be pleased to call for the entire records pertaining to the impugned Criminal Case No. 232/2025 under Sections 420, 120(B) IPC, P.S. Basantpur, District - Rajnandgaon (C.G), titled as 'State of Chhattisgarh Vs. Harishankar Jharray and others' currently pending before the Court of Chief Judicial Magistrate, Rajnandgaon (C.G).

iii. Any other relief which this Hon'ble Court deems fit in the facts and circumstances of the case along with cost of the

petition be awarded in favour of the applicants.”

3. The present case arises out of FIR No. 539/2024 registered at Police Station Basantpur, District Rajnandgaon (C.G.), wherein the complainant alleged that in the year 2012 he entered into various agreements with the petitioners and other co-accused persons for purchase of approximately 9 acres of agricultural land situated at Village Nadi. Pursuant to the said agreements, the complainant allegedly paid substantial amounts towards earnest money and further cash payments from time to time, totaling approximately Rs. 2,02,00,000/-. It is alleged that despite receiving the said amounts, the accused persons failed to execute the sale deeds in favour of the complainant and subsequently attempted to transfer portions of the disputed land to third parties, thereby committing offences under Sections 420 and 120-B of the Indian Penal Code.
4. Learned counsel for the petitioners submits that the impugned criminal proceedings arise out of a purely civil and contractual dispute relating to agreements for sale of land executed between the parties in the year 2012. The FIR has been lodged after an inordinate and unexplained delay of more than a decade, which itself casts serious doubt upon the genuineness and bona fides of the allegations. It is further submitted that prior legal notices regarding non-execution of the sale deed had already been issued by the accused persons and public notices concerning the land were also published, thereby indicating absence of any fraudulent

or clandestine conduct. Learned counsel further contends that similar complaints made earlier by the complainant were treated as non-cognizable in nature by the police authorities.

5. It is further submitted that the essential ingredients of offences under Sections 420 and 120-B IPC are wholly absent, as there was no dishonest or fraudulent intention on the part of the petitioners at the inception of the agreements. Mere breach of contract or failure to execute a sale deed cannot by itself give rise to criminal prosecution in absence of mens rea. The petitioners are permanent residents, law-abiding citizens having no criminal antecedents, and they have cooperated with the investigation and judicial proceedings throughout. Learned counsel submits that the criminal proceedings have been initiated only to pressurize the petitioners and misuse the criminal justice system for enforcement of a civil claim. Therefore deserve to be quashed in the interest of justice.
6. Learned counsel for respondent No. 2 submits that the petitioners had admittedly entered into multiple agreements for sale of land with respondent No. 2 and received substantial amounts towards advance consideration and other payments from time to time, but despite receipt of the said amounts, neither executed the sale deeds nor refunded the money to the complainant. She further submits that the conduct of the petitioners in retaining the money, not informing the complainant about any alleged cancellation of the agreements, failing to initiate any proceedings for cancellation

thereof, and thereafter transferring portions of the disputed property to third parties, clearly establishes dishonest intention and fraudulent conduct from the inception. It is further submitted that the petitioners themselves have admitted execution of the agreements and receipt of money during enquiry proceedings, which prima facie establishes the ingredients of the offences alleged. It is, therefore, prayed that the present petition being devoid of merit deserves to be dismissed.

7. Learned counsel for the State submits that during the course of investigation, sufficient material has been collected against the petitioners and documentary evidence relating to payment of substantial amounts by the complainant towards purchase of the disputed land. It is submitted that despite receipt of the said amounts, the petitioners neither executed the sale deeds nor refunded the money and subsequently dealt with the property in favour of third parties, thereby prima facie attracting offences under Sections 420 and 120-B IPC. Learned State counsel further submits that the learned Trial Court has rightly taken cognizance on the basis of the material available in the charge-sheet and at this stage, disputed questions of fact cannot be adjudicated in proceedings under Section 482 Cr.P.C. It is contended that the inherent jurisdiction of this Court is to be exercised sparingly and only in exceptional cases, and since the allegations and material collected during investigation disclose commission of cognizable offences, no interference is warranted at this stage.

8. We have heard learned counsel for the parties and perused the material annexed with the petition.
9. From perusal of the contents of the FIR, it appears that the complainant, Indra Kumar Adani, alleged that the accused persons, namely Harishankar Sonkar, Faguwaram Sonkar, Ganeshram Sonkar, Daduram Sonkar and Parasram Sonkar, entered into multiple agreements for sale of different parcels of land situated at Village Nandai, Tahsil and District Rajnandgaon, during the year 2012 at the rate of ₹21,87,000/- per acre. It has been alleged that pursuant to the said agreements, substantial amounts were paid by the complainant from time to time, including earnest money and further payments amounting to approximately ₹2,02,00,000/-, which constituted nearly 98% of the total sale consideration. The FIR further reveals that despite receipt of the aforesaid amounts, the accused persons neither executed the sale deeds in favour of the complainant nor returned the money received from him, and allegedly continued to evade execution of the registration on one pretext or another. It is further alleged that some of the accused persons subsequently sold portions of the subject land to third parties and also initiated steps for donation of certain portions of the land without informing the complainant, thereby allegedly concealing material facts and acting dishonestly. The FIR further discloses that during enquiry proceedings, the accused persons admitted receipt of money from the complainant. On the basis of the allegations made in the complaint and the

material collected during preliminary enquiry, the police authorities found prima facie commission of offences punishable under Sections 420 and 34 of the Indian Penal Code and accordingly registered the offence for investigation.

- 10.** Considering the allegations made in the FIR, the material collected during investigation, and the admitted fact that the dispute arises out of agreements relating to sale of immovable property executed between the parties in the year 2012, this Court finds that the controversy predominantly pertains to enforcement of contractual obligations and non-execution of sale deeds. The records further reflect that the parties had entered into written agreements and substantial payments were allegedly made pursuant thereto, however, the dispute essentially centers around non-performance of the terms of the agreements. Mere breach of contract or failure to honour contractual obligations, by itself, does not constitute the offence of cheating unless fraudulent or dishonest intention is shown to exist from the inception of the transaction. From the material placed on record, such foundational ingredients attracting criminal liability under Section 420 IPC do not prima facie appear to be made out and the dispute appears to be overwhelmingly civil in nature, for which appropriate civil remedies are available to the parties.
- 11.** This Court further finds substance in the contention of the petitioners that the criminal proceedings appear to have been initiated after considerable delay and in the backdrop of a

continuing civil dispute relating to the subject land transactions. At this juncture it would be apposite to refer the settled legal principles governing the exercise of inherent jurisdiction of this Court. The Hon'ble Supreme Court in the matter of **State of Haryana and others v. Bhajan Lal and others**, 1992 Supp (1) SCC 335 laid down the categories of cases where criminal proceedings are liable to be quashed including the cases where allegations do not prima facie constitute any offence or inherently improbable and it has been observed by the Hon'ble Supreme Court in para 102 and 103 that -

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(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 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 155(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 criminal proceeding is a 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.

103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice."

12. In the case of **Anand Kumar Mohatta and Another Vs. State (NCT of Delhi), Department of Home and Another**, (2019) 11 SCC 706 the Hon'ble Supreme Court has held in para 14 and 16 of its judgment that:-

"14. First, we would like to deal with the submission of the learned Senior Counsel for Respondent 2 that once the charge-sheet is filed, petition for quashing of FIR is untenable. We do not see any merit in this submission, keeping in mind the position of this Court in Joseph Salvaraj A. v. State of Gujarat [(2011) 7 SCC 59 : (2011) 3 SCC (Cri) 23]. In Joseph Salvaraj A. [(2011) 7 SCC 59 : (2011) 3 SCC (Cri) 23], this Court while deciding the question whether the High Court could entertain the Section 482 petition for quashing of FIR, when the charge-sheet was filed by the police during the pendency of the Section

482 petition, observed : (SCC p. 63, para 16)

"16. Thus, from the general conspectus of the various sections under which the appellant is being charged and is to be prosecuted would show that the same are not made out even prima facie from the complainant's FIR. Even if the charge-sheet had been filed, the learned Single Judge [Joesph Saivaraj A. v. State of Gujarat, 2007 SCC OnLine Guj 365] could have still examined whether the offences alleged to have been committed by the appellant were prima facie made out from the complainant's FIR, charge-sheet, documents, etc. or not."

15. Even otherwise it must be remembered that the provision invoked by the accused before the High Court is Section 482 CrPC and that this Court is hearing an appeal from an order under Section 482 CrPC. Section 482 CrPC reads as follows:-

"482. Saving of inherent powers of the High Court.— Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice."

16. There is nothing in the words of this section which restricts the exercise of the power of the Court to prevent the abuse of process of court or miscarriage of justice only to the stage of the FIR. It is settled principle of law that the High Court can exercise jurisdiction under Section 482 CrPC even when the discharge application is pending with the trial court [G. Sagar Suri v. State of U.P., (2000) 2 SCC 636, para 7 : 2000 SCC (Cri) 513. Umesh Kumar v. State of A.P., (2013) 10 SCC 591, para 20 : (2014) 1 SCC (Cri)

338 : (2014) 2 SCC (L&S) 237] . Indeed, it would be a travesty to hold that proceedings initiated against a person can be interfered with at the stage of FIR but not if it has advanced and the allegations have materialised into a charge-sheet. On the contrary it could be said that the abuse of process caused by FIR stands aggravated if the FIR has taken the form of a charge-sheet after investigation. The power is undoubtedly conferred to prevent abuse of process of power of any court.”

13. Recently, in the case off **“Anukul Singh Vs. State of UP and Another”**, 2025 SCC Online SC 2060, the Hon’ble Supreme Court has held that:-

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.17, 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.

(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 Uttaranchal¹⁸, 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.

21. The High Court, in refusing to quash the proceedings, misdirected itself in law by failing to apply the ratio laid down in Bhajan Lal, and the subsequent authorities referred to above, which uniformly hold that the machinery of criminal law cannot be permitted to be misused for settling civil disputes or to wreak vengeance.

- 14.** Applying the aforesaid settled principles to the facts of the present case, this Court is of the considered opinion that continuation of criminal proceedings against the present petitioner, in absence of specific allegations and in light of the predominantly civil nature of the dispute, would amount to misuse of the criminal justice machinery. Accordingly, the petition deserves to be and hereby **allowed**,
- 15.** The proceeding of Criminal Case No. 232/2025 pending before the

learned Judicial Magistrate, First Class, Rajnandgaon under Section 420, 506, 34 of the IPC arising out of Charge Sheet No. 20/2025, FIR of Crime No.539/2024 registered at Police Station Basantpur, Rajnandgaon are hereby quashed.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

sagrika