



IN THE HIGH COURT OF ORISSA AT CUTTACK

AFR

CRLREV No.421 of 2025

Sonia Tripathy

....

Petitioner

Mr. Milan Kanungo, Senior Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. S.K. Swain, AGA

Mr. S.K. Sarangi, Senior Advocate for the Informant

CORAM:

JUSTICE R.K. PATTANAIAK

DATE OF HEARING: 12.11.2025

DATE OF JUDGMENT: 23.02.2026

1. Instant revision under Section 442 BNSS corresponding to 401 Cr.P.C. is at behest of the petitioner challenging the impugned order dated 11th July, 2025 passed in connection with C.T. No.101(A) of 2023 by the learned Presiding Officer, Designated Court under the OPID Act, Cuttack, Odisha, whereby, an application under Section 262 BNSS read with Section 239 Cr.P.C. moved by her seeking discharge from the offences punishable under Sections 420, 506 and 120-B IPC read with Section 34 IPC was rejected on the ground inter alia that such decision is otherwise illegal, without proper evaluation of the materials on record, hence, the same is liable to be interfered with and set at naught.

2. In fact, the petitioner has been chargesheeted for the alleged offences in connection with EOW, Odisha, Bhubaneswar P.S. Case No.12 dated 23rd March, 2023. Initially a written report was lodged at the Airfield P.S.



Bhubaneswar on 9th October, 2021 and accordingly, a case was registered against the petitioner and her husband, namely, Rajiv Lochan Das. But, thereafter the investigation in respect of Airfield P.S. Case No.265 of 2021 was handed over to the EOW, Odisha, Bhubaneswar. The prosecution allegation in brief is that the informant was approached by the petitioner and her husband multiple times to help them in investment. It has been alleged that the petitioner represented herself as running a successful interior designing and decoration business at Bhubaneswar with brand of international repute, whereas, husband dealing with land business including construction and real estate and have vast experience in the said field and by such means, his trust was gained. The further case of the informant is that in between 18th-23rd November, 2019, the petitioner and her husband, in course of discussions, requested him for a friendly loan for expansion of her business in the name of Bright Home Décor and promised to return the money and/or adjust the same in the construction of a Villa for him with its interior design and since he was approached many times, an amount of Rs.70 lac was given in loan through RTGS on 19th December, 2019 and as security agreements were signed between them on 10th December, 2019. It has been alleged that soon after the friendly loan, the petitioner and her husband avoided the informant and ultimately closed Bright Home Décor and also its account in the year 2020. At last, after the FIR was lodged, Airfield P.S. Case No.265 dated 9th October, 2021 was registered and as earlier stated, the investigation therein was taken over by the EOW, Odisha, Bhubaneswar.



3. According to the petitioner, initially, the chargesheet was filed in the year 2024 against her husband and investigation was kept open but she was arrested on 21st June, 2024 in connection with Infocity P.S. Case No.368 of 2023 corresponding to C.T. Case No.1340 of 2023 registered under Sections 419, 420, 467. 468, 471 and 120-B read with 34 IPC and while was in custody, she was taken on remand on 27th June, 2024 and produced before the OPID Court, Cuttack and thereafter, a supplementary chargesheet dated 19th September, 2024 was filed against her for the alleged offences. In course of enquiry, the petitioner moved the application under Section 262 BNSS corresponding to Section 239 Cr.P.C. before the learned Special Judge, OPID Court, Cuttack demanding her discharge on the ground that the charges levelled against her to be groundless and there is no prima facie material to presume that she has committed the offences. But such a plea was rejected vide Annexure-1.

4. The impugned order dated 11th July, 2025 denying her discharge vide Annexure-1 is questioned by the petitioner on the following grounds, such as, (i) the impugned order i.e. Annexure-1 is contrary to law and weight of materials on record; (ii) the agreements dated 9th December, 2019, the copies of which were seized during investigation reveal about loan for other business, whereas, the Bright Home Décor as described by the informant in the FIR deals with interior designing besides that there is nothing therein to justify that the petitioner and her husband, while dealing with real estate business, in order to find out a suitable piece of land and to



help him in the construction of Villa and its designing that the loan amount was to be adjusted for the said purpose or else returned within a short time; (iii) even assuming for the sake of argument that the allegations in the FIR to the effect that the petitioner and her husband stopped showing the informant any land for purchase and avoided repayment of the loan amount, it would be preposterous to conceive as to why the informant remain silent for about a year to set the law into motion; (iv) a complaint under Section 138 NI Act was filed in the court of learned S.D.J.M., Bhubaneswar and prior to that a legal notice dated 8th January, 2021 was issued to the petitioner demanding certain amount and therein, it is mentioned that on 9th December, 2019 towards 1st instalment Rs.70 lac was given to her and furthermore, Rs.4,62,40,000/- on 12th December, 2020 and out of that, Rs.40 lac was paid back and that the same was adjusted towards the loan and that apart, on 23rd December, 2019, the informant was paid Rs.33 lac and describing therein about agreement dated 9th December, 2019 and considering the notice in the complaint in 1CC Case No.723 of 2021 as at Annexure-2 series, it has to be said that the amount involved in the case has already been paid back by the petitioner; (v) there is no material received during investigation between January, 2024 and September, 2024, when further investigation was in progress after the filing of the chargesheet dated 7th January, 2024 so as to implicate the petitioner particularly when similar allegations were made in the chargesheet filed but still she was not chargesheeted; (vi) by letter No.773 dated 9th March, 2024 of the IO looking after the investigation which is a part



of the chargesheet addressed to the NCLT to provide information regarding CP(IB) No.180/CB of 2020 which was responded to supplying the orders passed therein and in MA (IB)(CB) of 2023, it clearly established that a liquidation order has been passed by the NCLT, Cuttack Bench, whereafter, an Official Liquidator was appointed as required under law and in that regard, fees were to be deposited by the Financial Creditor, namely, informant, however, when such deposit was not made by another order. the company was dissolved, subsequent to which, an application for recall of the same was moved, which was declined by the NCLT on the ground of jurisdiction and suggested the Financial Creditor to approach higher forum and the reason behind bringing such fact to the notice of the Court is that the alleged amount involved is a subject matter of challenge before the NCLT which was instituted much prior to the lodging of the complaint and also the FIR and therefore, even accepting the allegation in its entirety, it can be said that a case of non-payment of loan in time is made out and for that a criminal prosecution is not to lie; (vii) the learned court below erred in law for not considering the above aspects and the fact that on the allegation of the informant regarding friendly loan received by the petitioner and her husband and the mischief committed by them failed to be substantiated by any other instances with the examination of any land lord to show that both of them had taken the informant and his wife to show any land for their purchase; (viii) the informant with frivolous and baseless allegations without any supporting materials, lodged the report and since the foundational facts are absent,



learned court below should have allowed the discharge, while considering the application under Section 239 Cr.P.C. corresponding to Section 262 BNSS, inasmuch as, no prima facie case has been made out presuming that the petitioner committed any such offence and hence, the charges are totally groundless. But, as earlier stated, the learned court below declined discharge of the petitioner vide Annexure-1. The details of the transaction alleged have been considered by the learned court below, however, ultimately the discharge of the petitioner was refused on the premise that other documents not forming a part of the chargesheet are not to be referred to while considering such an application and that, there is allegation which revealed involvement of the petitioner and whether she did have any nexus or otherwise, can only be ascertained after having a full-fledged trial.

5. Heard Mr. Kanungo, learned Senior Advocate for the petitioner, Mr. Swain, learned AGA for the State and Mr. Sarangi, learned Senior Advocate appearing for the informant.

6. In course of hearing, Mr. Kanungo, learned Senior Advocate for the petitioner cited many case laws while questioning the correctness of the impugned order as at Annexure-1. One of the decisions in **Gajanan Property Dealer and Construction Pvt. Ltd. and others Vrs. State of Orissa and another, 2018 SCC OnLine Ori 387** is relied on by claiming that such other records which are relevant and have not been disputed by the prosecution can be looked into at the stage of framing of charge, while dealing with an



application under Section 239 Cr.P.C. as exclusion of it would be a travesty of justice. In the case at hand, the petitioner relies on the documents connected to 1CC Case No.723 of 2021 pending in the file of learned S.D.J.M., Bhubaneswar as at Annexure-2 series and also the legal notice received from the informant, the fact which has not been refuted by the prosecution, hence, according to Mr. Kanungo, learned Senior Advocate, it ought to have been considered by the learned court below when brought to its notice from side of the petitioner, while demanding discharge for the alleged offence. Mr. Swain, learned AGA and Mr. Sarangi, learned Senior Advocate for the informant submit that the learned court below did not commit any wrong or illegality in denying examination of all such records at the stage of framing of charge.

7. According to the Court, for the purpose of trial, what is needed is that a prima facie case is established and while considering the same, a piecemeal trial is not to be held and at the same time, no extraneous materials other than the chargesheet and documents filed therewith are to be gone into and examined, which may be received as a means of defence. If the documents relating to the complaint and such other materials, which are no part of the chargesheet, are accepted and allowed to be examined during the stage of enquiry before commencement of trial, it would lead to a mini-trial, which is also not impermissible under law and therefore, it has to be concluded that the learned court below did not commit any wrong in not looking at such materials.



8. In so far as factual aspects are concerned, as has been pleaded by the petitioner with the claim that it ought to have been taken cognizance by the learned court below, in the considered view of the Court, could not have been enquired into by learned court below before commencement of the trial. When the chargesheet is filed and it is with a subjective satisfaction by the police that a case is established, hence, to go for trial or otherwise, a Court receiving the same, is to examine the materials filed therewith to find out and ascertain whether the alleged offences are prima facie made out. The law is well settled that a detailed scrutiny or evaluation of evidence is not to be considered at that stage. In fact, the Apex Court in **State of Rajasthan Vrs. Ashok Kumar Kashyap (2021) 11 SCC 191** held and concluded that while considering framing of charge or discharge, the Court is not to evaluate the evidence or to conduct a mini-trial. In **P. Vijayan Vrs. State of Kerala and another (2010) 2 SCC 398**, it has been emphasized that the Court dealing with the enquiry should not weigh the evidence but only to check, if a case exists for trial. In **Amit Kapoor Vrs. Ramesh Chander and another (2012) 9 SCC 460**, the Apex Court concluded that the Courts must look at the materials and it should not turn the hearing on discharge into a trial. In **Union of India Vrs. Prafulla Kumar Samal & another, (1979) 3 SCC 4**, it has been highlighted upon that there is a limited scope of enquiry at the stage of framing of charge. The purpose for an enquiry before the trial begins is only to examine the materials, once again after taking cognizance of the offences at the initial stage, only to filter and eliminate cases, which



are not fit for trial but that does not mean to hold a premature trial with detailed scrutiny and evaluation of evidence, which is not permissible. So therefore, any such ground pleaded by the petitioner based on the documents or materials connected to the complaint case or for that matter, with regard to any such proceeding before the NCLT cannot be considered for the purpose of discharge. Whether any such transaction is independent of other allegations not connected to friendly loan or otherwise is a matter to be thrashed out during trial. In other words, the claim of the petitioner that it was merely a loan and nothing to do with construction of a Villa and its adjustment for such construction and interior designing of the same and that amount received was returned with the repayment revealed from the legal notice issued followed by the complaint case filed shall have to be scrutinized during trial and not at the stage of enquiry, where the scope is very limited and no any exercise like a trial is allowed under law.

9. Section 262 BNSS corresponding to Section 239 Cr.P.C. stipulates that if upon considering the police report and documents sent therewith examined with a proper hearing held providing the prosecution as well as defence an opportunity of being heard and the Court considers the charge to be groundless, it shall discharge the accused and record the reasons for doing so. The object of discharge is to save the accused from the ignominy of being tried in a criminal prosecution where the charge against him is unfounded. When the allegations are baseless or without foundation and no prima facie case is made out, it shall have to result in



discharge of the accused. The appreciation of evidence is an exercise which is not to be taken up at the stage of consideration of discharge. The veracity of allegations vis-à-vis the materials filed along with the chargesheet and the evidence proposed to be led during trial are not to be meticulously scrutinized. The likelihood of the accused in succeeding to establish a probable defence cannot either be a ground for discharge.

10. In **Amit Kapoor** (supra), the Apex Court it is held that at the initial stage of framing charge, the Court is not concerned with the proof but only to consider that the accused has committed an offence, which if put to trial, could prove his guilt and all that is to be looked into is that the materials on record and to conclude if the facts alleged are compatible with the innocence of the accused and the final test of guilt is not to be adjudged at that stage. Similarly, in **State of Madhya Pradesh Vrs. Mohanlal Soni (2000) 6 SCC 338**, it has been held that at the stage of framing of charge, the Court has to prima facie consider, whether, there is sufficient ground for proceeding against the accused and that stage, evidence is not to be appreciated so as to conclude, whether, the same is sufficient to convict the accused. It has been concluded therein that if the evidence which the prosecution proposes to submit to prove the guilt of the accused even if fully accepted before it is challenged during trial cannot show that the accused committed a particular offence, in that case, the charge shall have to be quashed. In **A.R. Saravanan Vrs. State through Inspector of Police, CB CID, Madurai 2003**



CriLJ 1140, the Apex Court held that under Section 239 Cr.P.C. it is the duty of the Court to consider whether there is ground for presuming commission of offence or whether, the charges to be groundless and only a prima facie case is to be established without any meticulous examination of evidence and the word 'groundless' employed therein means there is no ground for presuming that the accused is guilty. Considering the above case laws, it is to be concluded that materials on record shall have to be subjected to limit evaluation only for the purpose of considering whether charge may be framed or the same is groundless and not beyond. Any such endeavor to seriously examine the truthfulness of the charges levelled with a conclusion as to the guilt of the accused would be like encroaching upon a territory, which is within the domain of trial.

11. Mr. Kanungo, learned Senior Advocate for the petitioner would submit that the offences are not made out and refers to the allegation of cheating in the light of a friendly loan said to have been given to the petitioner and therefore, the submission is that the learned court below ought not to have declined discharge. From the chargesheet, the Court finds that the investigation revealed the informant and his wife had agreements executed with the petitioner and her husband the informant transferred the amount through RTGS. It has been further revealed that the amount was paid and received for the purpose of providing piece of land and construction of a Villa at Bhubaneswar, which did not materialize due to the conduct of the petitioner and her husband, who claims that



such amount would be adjusted or refunded, a promise, which was never honoured. It was unearthed in the investigation that an amount of Rs.70 lac was credited to the account of the petitioner and it was through multiple transactions during the year 2019 and the account to which, such transfers were made was opened in 2017 and closed in 2020 with no balance therein. From the very conduct of the petitioner mala fide has been attributed and such is the conclusion reached at the end of investigation for the reason that the post-dated cheques for an amount of Rs.70 lac issued by the petitioner could not be encashed by the informant as the account of Bright Home Décor was closed with no balance left therein. It has been found in such investigation that the petitioner and her husband induced the informant and his wife and deceived both in order to avail the loan and cheated them. Whether, it was a pure and simple loan transaction or for the conduct of the petitioner, a case of cheating with dishonest intention harboured from the very beginning is to be examined.

12. In Satishchandra Ratanlal Saha Vrs. State of Gujarat and another (2019) 9 SCC 148, it has been held by the Apex Court that it is the duty of the Court to apply its judicial mind to the materials and to arrive at a conclusion that a prima facie case has been made out since an order for framing of charge is a serious concern to the accused as it affects his liberty and therefore, the Courts are to be cautious for their decisions at that stage may cause irreparable harm to him. It is well settled law that an offence of cheating may be tried



even when a particular transaction has been put to test in a complaint case for an offence under Section 138 of the NI Act provided there exists *mens rea* and it is made to suggest that the accused did have such intention from the very threshold. Mr. Kanungo, learned Senior Advocate for the petitioner cited many other case laws but are not discussed elaborately for the reason that the Court finds from the FIR and the chargesheet with all other materials filed therewith that a case is made out for trial. It has been the allegation of the informant that he has been defrauded and the amount was received only for expansion of the petitioner's business in Bright Home Décor and to return the same later on and/or to adjust it in the Villa construction and interior designing of it. The conduct of the petitioner is to be considered to find out whether the intention was to pay back or to adjust the amount in the construction of a Villa for the informant.

13. The Court is of the view that instead of discussing all the case laws cited, it would be proper if the sum and substance thereof is discussed and deliberated upon apart from the citations which are really relevant to the case. The contention of Mr. Kanungo, learned Senior Advocate is that it is a case of default in repayment of friendly loan given to the petitioner by the informant and therefore, there is no element of any bad intention or *mens rea* and hence, the alleged offences are not made out. The contention is that bad intention must have to exist at the very inception when the friendly loan was received by the informant with whatever assurance or promise made. It is settled law that mere default



in the repayment of a friendly loan does not automatically constitute a case of cheating. Such defaults are generally considered civil liabilities, rather, than criminal offences. An offence under Section 318 BNSS corresponding to Section 420 IPC for cheating is made out only if it is proven that the borrower had a dishonest or fraudulent intention at the very beginning of the transaction itself. If a borrower receives a loan with an honest intention to repay but fails to do so for certain reasons like financial crisis or business loss or unforeseen circumstances, it would not be a cheating. In the instant case, the contention of Mr. Kanungo, learned Senior Advocate is that no such intention ever existed at the time when the alleged transaction took place and the friendly loan was received and therefore, to claim that there is cheating committed by her is not proper and justified.

14. According to the Court, in a case of friendly loan simpliciter, in the event of default by the borrower, the remedy lies in the recovery of the amount. In such a case, the criminal law cannot be set into motion, which has been repeatedly emphasized. The only way out is to recover the debt by approaching a civil court. Furthermore, a criminal prosecution cannot be used as a tool for the recovery. In the case of the petitioner, as per the FIR, she said to have received the amount from the informant for the reason stated therein but it was not fulfilled. In such a situation, whether, it would be right to allege the petitioner to have committed an offence of cheating. A transaction leads to a criminal consequence only if the following elements are shown to



exist, such as, the receiver of the money never intended to repay the loan or to fulfill the obligations arising out of a transaction from the moment it was taken or promised, as the case may be; or misrepresents using forged documents, fake credential or false information; the borrower has the capacity to pay back but deliberately on some pretext or other refuses to do so; or diverts the same for other purposes; or disposes of assets without the lender's knowledge or commits such other mischief which most certainly to frustrate the fulfillment of the promise given at the time of transaction. Unless there is clear, premeditated fraud or misrepresentation at the time of taking the money for whatever purpose be it a loan or otherwise, no criminal prosecution can be levied.

15. It has been consistently held and observed by the Apex Court in a catena of decisions that for a case of cheating to be made out, the 'Inception Rule' must have to be applied. Since a case under Section 420 IPC read with 120-B IPC is registered against the petitioner and her husband as made to reveal from the record and it has led to the filing of the chargesheet, a copy of which is at Annexure-1, it has to be prima facie proved that apart from the accused husband, she had no intention to ensure repayment of the money to the informant from the beginning. Considering the essential ingredients of the offence of cheating, what is more important is the intent; if such intent is honest, it is merely a default in repayment carrying a civil liability but where it is dishonest from the start, the same invites a criminal action. A genuine difficulty or inability to pay back is not cheating, which is,



however, may be alleged, where the deception lies or such act which is fraudulent to the very core. In case of financial distress or partial payments, the conduct can be said to be not dishonest and it becomes a case of default but where there is false identity or the borrower vanishes immediately after receiving the money or deliberately avoids repayments and adopts unfair means to avoid payments or refund, it has to be held as an intentional act of cheating. According to the Court, the intention of a borrower is ascertained or measured only from the conduct that he had indulged in cheating from the inception. An innocent lender cannot assess the intention of the borrower from day one but it is realized later looking at the conduct, whereby, the conclusion may become that there was no intention of repayment at all. It depends on facts and circumstances of each particular case to consider any such intention or otherwise either in a friendly loan or any other transaction to determine the legal consequences to follow.

16. In Satish Chandra Ratanlal Saha (supra), the Apex Court held and concluded that mere inability to return the loan amount cannot give rise to criminal prosecution for cheating. In **Hridaya Ranjan Prasad Verma and others Vrs. State of Bihar and another (2000) 4 SCC 168**, the Apex Court ruled that the distinction between a breach of contract and cheating depends on whether there was fraudulent inducement and mens rea at the beginning. The key ingredients of cheating are of false representation or misleading acts and omission by the accused. The proof of the accused intended to cheat from the start, not just a failure



to perform later, is crucial and is proven by subsequent actions. An act of inducement is nothing but deception of lender to deliver the money or enter into a transaction with the borrower. In other words, a simple default in repayment of fulfilling the promise in terms of an agreement between the parties without initially dishonest intent is not enough for proving an act of cheating. A later fraudulent act may not always be relevant to prove the intent to be dishonest from the beginning. A dishonest intent must exist at the time of inducement but in a given case, the intent of the borrower may be verified after the transaction to ascertain, whether, it was dishonest from the inception. In **State of Bihar Vrs. Ramesh Singh 1977 CriLJ 1606**, it has been held by the Apex Court that the distinction between a contract failing to result in success and the fraudulent inducement to commit cheating are clearly distinguishable. In **Hridaya Ranjan Prasad Verma (supra)**, it has been observed by the Apex Court that inability to repay back cannot amount to a criminal prosecution for cheating unless fraudulent or dishonest intention is shown right from the inception of the transaction as mens rea is the crux of the offence. In the above decision, the Apex Court also cautioned against criminalizing civil disputes and observed that it could lead to dissonance with the established legal principles, which clearly draw a line between civil and criminal offences. A reference may be had to the decision of the Apex Court in **Gian Singh Vrs. State of Punjab and another (2012) 10 SCC 303**. Similarly, in **State of Kerala Vrs. A. Pareed Pillai and another 1972 CriLJ 1243**, it is held that merely on the basis of a failure to



keep up a promise subsequently, culpable intention right at the beginning, when the promise is made cannot be presumed. In a case, where the amount was not paid back due to genuine causes, it was held that such default amounted to breach of contract and not a criminal offence due to the absence of dishonest intention as held by the Apex Court in **Hari Prasad Chamaria Vrs. Bishun Kumar Surekha and others 1974 CriLJ 352**. It is pertinent to note that deception is essential and mere failure to honour a promise does not by itself constitute the offence of cheating. The Courts have long emphasized the distinction between civil and criminal wrongs and they must not permit a person to be harassed even though no case for taking cognizance of the offences has been made out as held in **GHCL Employees Stock Option Trust Vrs. India Infoline Limited (2013) 4 SCC 505** and finally concluding that if an alleged act gives right to a civil liability, it cannot be dressed up as a criminal offence. In **Satish Chandra Ratanlal Saha** (supra), it is also concluded by the Apex Court that sometimes the facts of a case may seem to be of a civil or commercial nature and in certain circumstances, it may be coupled with ingredients of criminal offence.

17. To sum up the above discussion, it is concluded that the indicators of initial dishonest intention are about false representation, when the accused claimed the money and it has been received for a specific need but used for any other purpose or to pay off other debts or transferring it to a third party; misrepresentation in the ability to repay; concealment



of material facts; bust-out behavior of the borrower etc. It has to be held that inception is key that the accused did not have the intent from the beginning of a transaction, whereas, subsequent conduct plays a part. If explained further, while an initial intent is crucial, subsequent behavior, such as, immediately ignoring phone calls, fleeing or using the funds for unintended purposes can be used to infer that the intention was dishonest from the start and not just non-repayment.

18. To establish the offence of cheating, the following ingredients are necessarily to be proved, namely, cheating; dishonestly inducing the individual deceived to part with any valuable; presence of *mens rea* on the part of the accused at the time of such inducement; and false representation which means the representation or portrayal made by the accused was false, which means, something else was projected which is untrue. In order to bring any case involving the offence of cheating under Section 420 IPC it is not solely sufficient to prove that a false representation has been made by the accused but what is also necessary is to show that such representation by the accused to be false was well within his knowledge but deliberately misled the persons deceived. In case of cheating, the responsibility rests on the prosecution to show affirmatively that all the essential components of such an act have been fulfilled. At the time of making any such promise in acknowledgement and it is failed to be proved that there was any further intention to it which is otherwise not genuine, then criminality cannot be fastened. The only remedy available in such a situation is to demand damages in



a lawsuit for breach of contract. The concept attached to the above reasoning is that there is a reasonable chance of accused ever having the intent to carry out the promise but subsequent failure to do so that might result from certain circumstances, which he was unaware of at the time when, it was proposed and not from any dishonest intent from the very beginning.

19. At present, the Court is dealing with demand for discharge from the alleged offences by the petitioner declined by order dated 11th July, 2025 of the learned court below. From the chargesheet, the Court finds that the petitioner received a loan with her husband from the informant for expansion of business run by a firm, namely, Bright Home Décor dealing with interior decoration and design based at Bhubaneswar and to construct a Villa for the latter. The transaction has taken place through RTGS and the amount has been received in the account of the petitioner maintained with Kotak Mahindra. In fact, the Court finds from the materials on record that the parties entered into a loan agreement and post-dated cheques were issued by the borrower for returning the principal amount and also had given the commitment in finalizing the land deal and also to assist the informant in the construction of a Villa with interior designing and accordingly, to adjust the loan amount. In the investigation, it has been revealed that soon after receiving the loan amount, no any genuine steps were taken by the petitioner's husband for arranging a land for the informant at Bhubaneswar and to construct a Villa, rather, they stopped



discussing the matter and when was approached there was an assurance to pay back the amount but did not refund thereafter. The further revelation made during the police investigation is that the petitioner and her husband closed the business of Bright Home Décor and even the account of firm maintained with Axis Bank during the year 2020 in which the loan amount was credited and since the bank account was closed during the month of September of that year, post-dated cheques dated 8th October, 2021 for an amount of Rs.70 lac issued by the petitioner as proprietor of the business concern could not be presented for encashment. The evidence surfaced during investigation further transpired that the accused husband identified himself as a businessman dealing with real estate at Bhubaneswar and also given impression to the informant that the petitioner's wife proprietor of Bright Home Décor is a successful interior designer dealing with brands of international repute and accordingly, induced him and wife by assuring them to arrange a plot and construction of a Villa in Bhubaneswar and in that connection, received the amount of Rs.70 lac. After having gone through the entire of the materials on record and the manner in which the petitioner conducted herself along with her accused husband, it does not appear to be a case of simple loan repayment and default but goes beyond and into the domain of mischief, hence, a fit case for trial. Such is the prima facie view of the Court after having examined the evidence for a limited purpose to determine, whether, her claim of discharge is justified. In the ultimate analysis, the conclusion of the Court is that the impugned decision as per Annexure-1 of the



learned Presiding Officer, Designated Court under the OPID Act, Cuttack, Odisha in C.T. No.101(A) of 2023 does not suffer any infirmity and therefore, the trial, which has already commenced in the meantime, shall have to continue to reach at its logical end and accordingly, it is ordered.

20. In the result, the revision petition stands dismissed.

(R.K. Pattanaik)
Judge

Tudu