A.F.R.

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 4274 of 2025

(In the matter of an application under Section 528 of B.N.S.S., 2023 read with Section 482 of the Code of Criminal Procedure, 1973.)

Bijayalaxmi Dash .... *Petitioner (s)*

-versus-

State of Odisha and Another .... *Opp. Party (s)*

Advocates appeared in the case through Hybrid Mode**:**

For Petitioner (s) : *Ms. Soma Patnaik, Adv.*

For Opp. Party (s) : *Mr. Sonak Mishra, ASC*
Mr. Jugala Kishore Panda, Adv.

CORAM:
DR. JUSTICE SANJEEB K PANIGRAHI

DATE OF HEARING:-05.02.2026
DATE OF JUDGMENT:-27.02.2026

Dr. Sanjeeb K Panigrahi, J.

1. In this Criminal Miscellaneous Petition, the petitioner seeks a direction from this Court to quash the entire criminal proceeding in G.R. Case No.858 of 2022 arising out of U.P.D. Nandankanan P.S. Case No.0107 of 2022 pending before the learned J.M.F.C. (O), Bhubaneswar, including the order rejecting discharge and framing of charge, on the ground that the dispute is purely civil in nature and continuation of prosecution amounts to abuse of process of law.

I. FACTUAL MATRIX OF THE CASE:

2. The facts of the case are as follows:

(i) The present proceeding arises out of G.R. Case No. 858 of 2022 pending before the Learned JMFC (O), Bhubaneswar, which in turn originates from U.P.D. Nandankanan P.S. Case No. 0107 dated 26.07.2022 registered under Sections 420, 294 and 506 IPC against the sole accused, Smt. Bijayalaxmi Dash.

(ii) The FIR alleges that between 11.04.2019 and 02.03.2020 the accused availed a friendly loan of Rs. 14,95,000/- from the informant, out of which Rs. 5,45,000/- was transferred through bank accounts maintained by the accused at SBI, Ravenshaw University Campus Branch, and Rs. 9,50,000/- was allegedly paid in cash, with an assurance of repayment within one year.

(iii) It is further alleged that the accused executed a money receipt dated 02.03.2020 on a non-judicial stamp paper acknowledging liability, but failed to repay despite repeated demands, and subsequently abused and threatened the informant when he approached her at her residence and workplace.

(iv) Investigation culminated in submission of charge sheet; cognizance was taken; the accused's discharge petition under Section 239 Cr.P.C. was rejected by order dated 26.08.2025; charge has been framed; and a petition seeking forensic examination of the disputed money receipt signature was also rejected at the pre-trial stage.

(v) Earlier, in CRLMC No. 658 of 2025, the High Court directed expeditious conclusion of trial, and in CRLMC No. 4274 of 2025 granted time for possible compromise discussions between the parties.

II. SUBMISSIONS ON BEHALF OF THE PETITIONER:

3. Learned counsel for the Petitioner earnestly made the following submissions in support of his contentions.

(i) The petitioner contends that the dispute, even if accepted on its face, is purely civil in nature arising out of an alleged monetary transaction, and does not disclose dishonest intention at inception so as to constitute cheating under Section 420 IPC, thereby rendering continuation of criminal proceedings an abuse of process.

(ii) It is asserted that the FIR is a product of personal vendetta, as the informant was earlier charge-sheeted in an EOW case involving impersonation and cheating, in which the petitioner was examined as a prosecution witness, and thereafter multiple litigations with shifting monetary claims were allegedly initiated against her.

(iii) The petitioner disputes the genuineness of the alleged money receipt and denies execution of the document, asserting that signatures are forged and that the investigating agency failed to conduct proper forensic examination or independent verification of financial capacity and transactional authenticity.

(iv) It is further argued that the allegations under Sections 294 and 506 IPC are vague, omnibus and devoid of particulars relating to specific threats, public place, or actual alarm, and that the

Magistrate took cognizance mechanically without adequate judicial scrutiny of statutory ingredients.

(v) The petitioner submits that continuation of proceedings violates Article 21 of the Constitution by subjecting her, a senior academician, to prolonged harassment through malicious prosecution lacking foundational criminal ingredients.

III. OPPOSITE PARTY'S SUBMISSIONS:

4. Learned counsel for the Opposite Party earnestly made the following submissions in support of his contentions:

(i) The informant asserts that the accused fraudulently induced him to advance Rs.14,95,000/- under the pretext of her mother's medical treatment, executed a written money receipt voluntarily, and thereafter intentionally defaulted with dishonest intention from the very beginning.

(ii) It is contended that part of the transaction is evidenced by bank transfers, and that subsequent closure of the accused's bank accounts, including her salary account, demonstrates malafide intention and avoidance of repayment.

(iii) The informant submits that abusive conduct and criminal intimidation occurred when he demanded repayment, and that the FIR, Section 161 statements and charge sheet collectively establish prima facie ingredients of offences under Sections 420, 294 and 506 IPC.

(iv) It is argued that the accused approached the High Court belatedly after framing of charge and after earlier directions for expeditious trial, thereby attempting to delay proceedings, and that inherent jurisdiction under Section 482 Cr.P.C. should not be invoked once charges have been framed and discharge has been rejected.

(v) Reliance is placed on judicial precedents holding that interference at the quashing stage is impermissible where prima facie material exists, and that a subsequent quashing petition after an earlier order directing expeditious trial would violate judicial discipline.

IV. ANALYSIS OF THE ORDER OF THE LOWER COURT:

5. The Analysis of the Order of the Lower Court is as follows:

(i) The learned JMFC, while rejecting the discharge petition under Section 239 Cr.P.C., recorded that the accused is directly implicated in the FIR, statements under Section 161 Cr.P.C., and the charge sheet, and held that culpability can be determined only after appreciation of evidence at trial.

(ii) The court relied upon precedents emphasizing limited scope at the discharge stage, holding that sufficiency of evidence is not to be weighed meticulously and that existence of prima facie material warrants continuation of trial.]

(iii) In rejecting the application to send the money receipt for forensic examination at the pre-trial stage, the Magistrate observed that genuineness of the disputed signature is a question of fact to be examined during trial and that prosecution also relies on bank statements, thereby finding no necessity for expert opinion at that stage.

(iv) The court expressed concern that repeated petitions may result in protraction of proceedings and noted that charge has already been framed, thereby implying that evidentiary adjudication is the appropriate procedural stage for testing defence claims.

(v) The lower court's reasoning reflects adherence to the settled principle that at the stage of discharge or cognizance the court is to see existence of prima facie material rather than conduct a detailed evaluation of defence pleas, leaving contested factual disputes, including intention and document authenticity, to be determined through full-fledged trial.

V. EXAMINATION OF THE LEGAL MATRIX:

6. Heard learned counsel for the parties and perused the materials placed on record.

7. The accused has invoked the High Court's inherent jurisdiction under Section 482 Cr.P.C. to quash the criminal proceedings. The threshold at this stage is narrow, as the Supreme Court has reiterated, the High Court must exercise this power sparingly, looking only for *prima facie* absence of any offence or clear abuse of process. It should not appreciate evidence in depth or resolve disputed facts at this stage. The allegations in the FIR and charge sheet must be taken at face value to see if all ingredients of the charged offences are prima facie disclosed. Only if no offence is made out even on those allegations, or if continuing trial would be a clear abuse of law, can the proceedings be quashed.

8. The core dispute is over a loan of ₹14.95 lakhs and a money-receipt dated 02.03.2020. The informant alleges that the accused knowingly obtained the money by false pretences (for the mother's treatment) and immediately defaulted, showing that there was never any intention to repay.

9. Section 420 IPC requires that the accused had a dishonest or fraudulent intention at the very inception of the transaction. As the Supreme Court has emphatically held, a mere breach of contract is not in itself a criminal offence and gives rise to civil liability, only where a culpable intention to defraud existed can there be cheating.

10. In ***Vijay Kumar Ghai v. State of W.B.***[1] for example, the Court quashed cheating charges, observing that fraudulent or dishonest intention is the basis of the offence of cheating and that absent proof of such intent at the time of making the promise, no offence under Section 420 can be said to have been made out. The relevant excerpts are produced below:

> *"34. There can be no doubt that a mere breach of contract is not in itself a criminal offence and gives rise to the civil liability of damages. However, as held by this court in Hridaya Ranjan Prasad Verma & Ors. Vs. State of Bihar & Anr.26, the distinction between mere breach of contract and cheating, which is criminal offence, is a fine one. While breach of contract cannot give rise to criminal prosecution for cheating, fraudulent or dishonest intention is the basis of the offence of cheating."*

11. In the present case, the accused denies any fraudulent intent and even disputes signing the money-receipt. That disputed document and the plea of forgery raise quintessential factual issues which cannot be resolved at the quashing stage. On the face of the FIR, however, a money-receipt was voluntarily executed accepting the loan and

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promising repayment. That document, taken at face value, suffices to disclose *entrustment* of money with an acknowledgment of liability. These allegations, if believed, could prima facie constitute cheating. Whether the receipt is genuine or whether the accused truly intended to repay are matters for trial, not for quashing. We cannot decide these contested facts now.

12. Moreover, even a transaction primarily civil in nature does not become non-criminal if a dishonest intention surfaces later. But the crucial question is *when* that intention arose. Here the informant's case is that the accused lured him on false pretences, which, if substantiated, would be a crime. It is not our function to accept or reject that version at this stage. Suffice it that the allegations, if taken as true, do not plainly show *no offence*. They disclose at least a colorable case of cheating under Section 420 IPC. The accused may ultimately establish that there was no initial dishonesty, but that inquiry is for trial. As held in ***Vijay Kumar Ghai*** **(Supra)**and other cases, only where it is indisputable that no intent to defraud existed (for example, where repayment was truly never in question) should criminal proceedings give way to civil remedy. No such indisputable case is shown on the present record.

13. The FIR also charges the accused with using obscene language (Section 294) and criminal intimidation/insult (Sections 504, 506). These allegations rest on the informant's claim that the accused abused and threatened him when he demanded repayment. But the complaint is vague: it does not specify any particular obscene words nor describe any public act of molestation required by Section 294. As a matter of law, to sustain Section 294 the language must be *obscene* and uttered in or near a public place "causing annoyance". Here the allegations are bald and lack necessary particulars, so no prima facie offence under Section 294 is made out.

14. Similarly, Section 504 requires an intentional insult likely to provoke a breach of peace, and Section 506 requires a threat made with intent to cause alarm. The Supreme Court in ***Mohammad Wajid v. State of U.P.***[2] explained that mere vague "abuse" does not suffice for Section 504 without knowing exactly what words were used. The relevant excerpts are produced below:

> *"25. Section 504 of the IPC contemplates intentionally insulting a person and thereby provoking such person insulted to breach the peace or intentionally insulting a person knowing it to be likely that the person insulted may be provoked so as to cause a breach of the public peace or to commit any other offence. Mere abuse may not come within the purview of the section. But, the words of abuse in a particular case might amount to an intentional insult provoking the person insulted to commit a breach of the public peace or to commit any other offence. If abusive language is used intentionally and is of such a nature as would in the ordinary course of events lead the person insulted to break the peace or to commit an offence under the law, the case is not taken away from the purview of the Section merely because the insulted person did not actually break the peace or commit any offence having exercised selfcontrol or having been subjected to abject terror by the offender. In judging whether particular abusive language is attracted by Section 504, IPC, the court has to find out what, in the ordinary circumstances, would be the effect of the abusive language used and not what the complainant actually did as a result of his peculiar*

[2] 2023 INSC 683

idiosyncrasy or cool temperament or sense of discipline. It is the ordinary general nature of the abusive language that is the test for considering whether the abusive language is an intentional insult likely to provoke the person insulted to commit a breach of the peace and not the particular conduct or temperament of the complainant."

15. The Court in the abovementioned precedent also held that to constitute Section 506, the accused must have intended to cause real alarm or coercion. In ***Mohammad Wajid (supra)*** the Court noted that before offence under 506 can be said to be made out, it must be established that the accused had an intention to cause alarm.

16. In the present FIR the informant claims he was threatened, but no specifics are given. Whether this amounts to a punishable intimidation is again a fact issue. At most it shows a disagreement escalated into heated words. In any event, even if the charge under Section 294 or 504 is weak on the record, the gravamen under Section 506 (threats to repay or harming) could survive if intent is proved. This too is a matter for trial, and the complaint does allege intent (to avoid repayment) albeit in general terms. On the face of the charge sheet, it cannot be said that absolutely no case under 506 is disclosed.

VI. CONCLUSION:

17. In view of the settled limitations governing the exercise of inherent jurisdiction under Section 482 Cr.P.C., and considering that the allegations in the FIR and charge sheet, when taken at face value, disclose prima facie ingredients of the offence under Section 420 IPC and at least a triable case under Section 506 IPC, this Court finds no ground to interdict the prosecution at this stage. The disputes raised by the petitioner, including the genuineness of the money receipt, the existence or absence of dishonest intention at inception, and the veracity of the allegations of intimidation, are essentially matters of evidence requiring adjudication during trial. The case does not fall within the narrow categories warranting quashing as an abuse of process or where no offence is made out even if the allegations are accepted in entirety.

18. Accordingly, the petition stands **dismissed**. The trial court shall proceed uninfluenced by any observations made herein and make endeavour to conclude the trial expeditiously in accordance with law.

19. The interim order, if any, passed earlier staying the proceedings is vacated.

(Dr. Sanjeeb K Panigrahi)
Judge

Orissa High Court, Cuttack,
Dated the 27th February, 2026/