

06.04.2026
08.
Bd.
Ct. 29

CRR 294 of 2026

Sharma Trading Co. & Ors.

Vs.

Mintiff Finserve Private Limited

Mr. Karan Dudhewala

Mr. Mukesh Pandey ... for the petitioners.

The instant complaint being CS Case No. 24701/2025 was initiated on the basis of a petition of complaint filed by the opposite party herein alleging commission of offences by the petitioners punishable under sections 316(2)/318(4)/321/61(2) of the BNSS.

The allegations leveled in the said complaint are inter alia to the effect that the petitioners/ accused persons approached the complainant and induced them for granting loan with the assurance that it will be reimbursed/repaid within time. Thereafter, the complainant disbursed loan on execution of agreement no. 63549 by the accused persons but the accused persons/petitioners have failed to make payment of the outstanding sum of Rs. 30,87,878.71/- in time in spite of repeated requests and reminders.

Being aggrieved by the aforesaid proceeding learned counsel for the petitioners submits that even if the allegations made in the complaint and in the initial depositions are taken to be correct, on their face value, the same may at best amount to breach of terms of contract and/or agreement by the petitioners but do not

constitute an offence of cheating or criminal breach of trust or criminal conspiracy. He further submits that a substantial portion of the loan amount has already been paid, which is reflected in the statements as annexed with the petition and as such the allegation of deception at the inception is absent which is sine qua non for constituting offence of cheating. He further submits that the allegation of cheating and criminal breach of trust cannot co-exist in respect of self same set of allegation. Furthermore in the absence of allegation of entrustment, there cannot be offence of criminal breach of trust. Moreover, the learned court below did not comply the mandatory provisions laid down in the BNS while took cognizance in the offence. Therefore, further continuance of the proceeding will be a mere abuse of the process of the court and he therefore prays of quashment of the proceeding.

Having heard learned counsel for the petitioners, the application is admitted.

Petitioners are directed to serve a copy of application upon the opposite party through speed post intimating next date of hearing and to file affidavit of service on the returnable date.

Let the matter be listed under the heading “Contested Application” in the monthly list of June, 2026.

Learned counsel for the petitioners also prays for stay of the impugned proceeding.

Having heard learned counsel for the petitioners and that the petitioners have made out an arguable case, which requires adjudication on merit, let the proceeding being Complaint Case No. CS/24701 of 2025 presently pending before learned Judicial Magistrate, 9th Court, Calcutta, is hereby stayed for a period of twelve weeks from date or until further order, whichever is earlier.

(Dr. Ajoy Kumar Mukherjee, J.)