[2025] 7 S.C.R. 2161 : 2025 INSC 869

Shailesh Kumar Singh Alias Shailesh R. Singh
v.
State of Uttar Pradesh & Ors.

(Criminal Appeal No. 2963 of 2025)

14 July 2025

[J.B. Pardiwala and R. Mahadevan, JJ.]

Issue for Consideration

Whether the High Court erred in passing the impugned order, in the writ petition filed by the appellant for quashing of the FIR lodged by the Respondent No.4-complainant for offences punishable u/ss.60(b), 316(2) and 318 (2), BNS, 2023, and directing the parties to go for mediation and also directing the appellant to hand-over a demand draft of Rs.25 Lakh to the Respondent No.4 for the mediation; whether the impugned FIR against the appellant ought to be quashed as the dispute between the parties is of a civil nature.

Headnotes†

Quashing – Of FIR – Dispute civil in nature – Constitution of India – Art.226 – Writ petition filed by the appellant for quashing of the FIR lodged by the Respondent No.4-complainant for the offence punishable u/ss.60(b), 316(2) and 318(2), BNS, 2023 – High Court directed the parties to go for mediation and also directed the appellant to hand-over a demand draft of Rs.25 Lakh to the Respondent No.4 for the mediation – Interference with:

Held: 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 – It ought not to make an attempt to help the complainant to recover the amount due and payable by the accused – Approach of High Court, deprecated – In a writ petition filed u/Art.226 of the Constitution or a miscellaneous application filed u/s.482, Cr.PC for quashing of FIR or any other criminal proceedings, High Court ought to look into the averments and the allegations levelled in the FIR along with the other material on record, if any – There was an oral agreement between the parties – Respondent No.4 might have parted with some money in accordance with the oral agreement and it may be that the

appellant owes a particular amount to be paid to the Respondent No.4 – However, 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 – Dispute between the parties is of a civil nature – FIR does not disclose any element of criminality – Impugned FIR quashed – Code of Criminal Procedure, 1973 – s.482. [Paras 9-12, 15, 17]

Abuse of process of law – Dispute between parties civil in nature, recourse to criminal proceedings – Impermissibility:

Held: In the present case no civil suit was filed for recovery of money – Money cannot be recovered, more particularly, in a civil dispute between the parties by filing a FIR and seeking the help of the Police – This amounts to abuse of process of law – 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 take recourse of criminal proceedings. [Paras 13, 14]

Case Law Cited

Delhi Race Club (1940) Limited v. State of Uttar Pradesh **[2024] 8 SCR 670 : (2024) 10 SCC 690 – relied on.**

State of Haryana & Others v. Bhajan Lal & Others **[1992] Supp. 3 SCR 735 : (1992) Supp. 1 SCC 335 – referred to.**

List of Acts

Bharatiya Nyaya Sanhita, 2023; Code of Criminal Procedure, 1973; Constitution of India; IB Code, 2016.

List of Keywords

Quashing of FIR; Dispute civil in nature; Civil dispute; Criminal breach of trust; Cheating; Intention of accused not to cheat the complainant from inception; Oral agreement; No element of criminality in FIR; Abuse of process of law; Recovery of money; Civil suit; Recourse to criminal proceedings not permitted; High Court directed parties for mediation; Judicial deprecation; Impugned FIR; Impugned FIR quashed; Writ petition filed for quashing of FIR.

Shailesh Kumar Singh Alias Shailesh R. Singh v.
State of Uttar Pradesh & Ors.

Case Arising From

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 2963 of 2025

From the Judgment and Order dated 07.03.2025 of the High Court of Judicature at Allahabad in CRMWP No. 4413 of 2025

Appearances for Parties

Advs. for the Appellant:
Ms. Sana Raees Khan, Ms. Smiti Verma, Pranay Shridhar Chitale, Ms. Beleena Biju.

Advs. for the Respondents:
Sarvesh Singh Baghel, Ms. Nupur Dubey, Shaurya Krishna, Anand Mishra, Sachin Midha.

Judgment / Order of the Supreme Court

Order

1. Leave granted.

2. This appeal arises from the order passed by the High Court of Judicature at Allahabad dated 7-3-2025 by which the High Court in a Writ Petition filed by the appellant – herein praying for quashing of the First Information Report lodged by the Respondent No.4 – herein for the offence punishable under Sections 60(b), 316(2) and 318 (2) of the Bharatiya Nyaya Sanhita, 2023 (for short, "the BNS, 2023") directed the parties to go for mediation and simultaneously also directed the appellant – herein to hand-over a demand draft of Rs.25,00,0000/- (Rupees Twenty Five Lakh only) for the purpose of mediation to the Respondent No.4 (original complainant).

3. The impugned order passed by the High Court reads thus"-

> "1. Heard Ms. Sana Raees Khan, learned counsel for the petitioner and learned A.G.A. appearing for the State respondents.
>
> 2. The petitioner, by means of this writ petition under Article 226 of the Constitution of India, has invoked the inherent jurisdiction of this Court with prayer to quash the impugned First Information Report dated 09.01.2025

registered as Case Crime No.12 of 2025 under Sections 60(b), 316(2) and 318(2) of B.N.S., 2023, P.S. Hariparwat, District Agra. Further request is made to issue direction to the respondents not to arrest the petitioner.

3. Learned counsel for the petitioner submits that the petitioner is a co-founder and production head of M/s. Karma Media and Entertainment LLP, which is primarily engaged in production of motion picture. The respondent no.4 (informant) is running the business under the name and style of M/s Polaroid Media, which is engaged in the business of financing, co-production and co- financing media projects. The informant has lodged the impugned FIR by dragging a civil dispute inter-se the parties into criminal case. A bare perusal of the impugned FIR, no criminal offence is made out against the petitioner. It is submitted that the Court must ensure that criminal prosecution is not used as an instrument of harassment or for seeking private vendetta or with an ulterior motive to pressurise the accused. Even though the proceedings are pending and neither the charge-sheet nor the final report has been submitted in the present case. In support of her submission she has placed reliance on the judgements of Apex Court in Delhi Race Club (1940) Ltd. vs. State of Uttar Pradesh (2024) 0 Supreme 689 (paras 25, 28, 29 and 30) and In the case of Radheyshyam & ors vs. State of Rajasthan & another Criminal Appeal No.3020 of 2024 decided on July 22, 2024. She lastly submits that as there is a commercial dispute and both the parties are reputed in the society, instead of dragging the matter in the criminal proceeding. it would be apt that the matter may be referred to the Mediation and Conciliation Centre of this Court.

4. In response to the aforesaid request, we have asked learned counsel for the petitioner to seek instructions from the petitioner for upfront payment to the informant so that the matter may be referred to the Mediation and Conciliation Centre and we have adjourned the proceeding. Later on, on the instructions, learned counsel for the petitioner

submits that the petitioner is inclined to pay Rs.25 lakhs within three weeks from today.

5. Accordingly, the matter is referred to the Mediation Centre of this Court with the direction that after deposit of such amount by the petitioner, the Mediation Centre shall make all possible efforts to conclude the mediation and conciliation proceedings expeditiously, preferably within a period of three months.

6. Let the parties be present at the Mediation and Conciliation Centre of this Court on 08.04.2025. The demand draft of Rs.25 lakhs would be handed over to the informant on the said date and a separate draft of Rs.5000/ towards the mediation fee shall also be deposited with the Mediation and Conciliation Centre.

7. List after expiry of aforesaid period before the appropriate Bench along with the report of Mediation Centre.

8. Till the next date of listing, respondents are restrained to arrest the petitioner pursuant to the impugned F.I.R. subject to cooperation in the on-going investigation.

9. It is made clear that in case there occurs default by the petitioner either in depositing the amount or in appearing before the Mediation Centre on the date fixed, the interim order shall cease to operate and the Mediation Centre shall immediately communicate with the office which in tum shall list the case within a week before the appropriate Bench for passing orders in the matter."

4. We heard Ms. Sana Raees Khan, the learned counsel appearing for the appellant (accused), Mr. Anand Mishra, the learned counsel appearing for the Respondent No.4 and and Mr. Shaurya Krishna, the learned counsel appearing for the State of U.P.

5. Section 60(b) of the BNS, 2023 reads thus:-

60. Concealing design to commit offence punishable with imprisonment.—

"Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence

punishable with imprisonment, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design shall,—

(*a*) if the offence be committed, be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth; and

(*b*) if the offence be not committed, to one-eighth, of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

6. Section 316(2) of the BNS, 2023 reads thus:-

316. Criminal breach of trust. (2) Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

7. Section 318(2) of the BNS,2023 reads thus:-

318. Cheating. (2) Whoever cheats shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

8. We called upon the learned counsel appearing for the Respondent No.4 to make us understand in what manner the FIR discloses commission of a cognizable offence. We also called upon the learned counsel appearing for the Respondent No.4 to make us understand in what manner his client could be said to have been cheated so as to constitute the offence of cheating.

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 vs. State of Uttar Pradesh"* reported in (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 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 Code of Criminal Procedure, 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 & Others vs. Bhajan Lal & Others"* Reported in 1992 Supp.(1) SCC 335.

16. In the result, this appeal succeeds and is hereby allowed.

17. The impugned FIR stands quashed.

18. We once again clarify that it shall be open for the Respondent No.4 to avail appropriate legal remedy before the appropriate forum in accordance with law for the recovery of the alleged amount due and payable to him.

Result of the case: Appeal allowed.

†*Headnotes prepared by:* Divya Pandey