IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 23.06.2025

+ **CRL.M.C. 6012/2019 & CRL.M.A. 41145/2019**

RASIKLAL MOHANLAL GANGANI .....Petitioner

versus

STATE & ANR .....Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Santosh Paul, Sr. Adv. with Mr. Sriharsh N. Bundela, Ms. Aditi Rai & Mr. Akshit Kumar, Advs.

For the Respondents : Mr. S. Qammar, Adv. for R-2.

CORAM
HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present petition is filed challenging the order dated 28.09.2013 (hereafter '**impugned order**'), passed by the learned Trial Court, in CC No. 99/0109, and all consequential proceedings emanating therefrom.

2. By the impugned order, the learned Trial Court has summoned the petitioner for the commission of the offence punishable under Section 420 of the Indian Penal Code, 1860 ('**IPC**').

3. The brief facts of the case are as follows:

3.1. A complaint was filed by the complainant company/ Respondent No.2 (earlier known as M/s. Indiabulls Securities Ltd.) under Section 200 of the Code of Criminal Procedure, 1973 ('**CrPC**') against the petitioner for the offence under Section 420 of the IPC. It

is the case of the complainant company that it is engaged in the business of stock broking and it provides stock trading services to its clients and thus acts as a transaction facilitator between its clients and the Bombay Stock Exchange and the National Stock Exchange. It is alleged that the petitioner was one of the clients of the complainant company and the petitioner had entered into a Member Client Agreement dated 03.01.2007 with the complainant company. The petitioner had been informed of the risks associated with shares and securities through the 'Risk Disclosure Document' as well.

3.2. Thereafter, it is alleged that the accused petitioner started placing orders with the complainant company for buying and selling of shares and securities. One of the services being availed by the petitioner under the Member Client Agreement was of margin trading facility, wherein the complainant company was to make part payment of the transaction value due to the Stock Exchange at the time of purchase of shares or securities.

3.3. It is alleged that since the accused failed to make payment of the margin money even after margin call, in time his shares were squared off in accordance with the Margin Trading Agreement. It is alleged that after squaring off the transactions, the accused petitioner had a debit balance of ₹98,73,005/- in his account as on 10.11.2008. Pursuant to the same, a legal notice was sent to the petitioner for repayment of the due amount, however, no reply was received for the same.

3.4. It is alleged that the petitioner had dishonestly and fraudulently

induced the complainant company to open an account in his name in the books of the complainant company and availed the margin facility with a dishonest intention of cheating the complainant company. It is alleged that the petitioner induced the complainant company into advancing the margin money to him by making false reassurances and promises of repaying the due amount, which he allegedly knew will not be honoured by him. It is alleged that the accused petitioner had dishonest intentions from the very beginning to deceive and cheat the complainant company and the petitioner had refused to pay the due amount causing wrongful loss to the complainant company.

3.5. Two complainant witnesses were examined before the learned Trial Court. CW1 (Manager of the complainant company) reiterated the allegations made in the complaint and produced the statement of account. CW2 (Senior Law Officer of the complainant company) also reiterated the allegations and deposed that the petitioner was in debit balance and did not pay the due amount despite issuance of legal notice.

3.6. In the impugned order, the learned Trial Court found that a *prima facie* case is made out against the petitioner accused and issued summons against him for the offence under Section 420 of the IPC.

3.7. Aggrieved by the same, the petitioner has preferred the present petition.

4. The learned senior counsel for the petitioner submitted that the allegations made in the complaint, even if taken at their face value and accepted in their entirety, do not make out even a *prima facie* case

against the petitioner. He submitted that the allegations made in the complaint are absurd and inherently improbable and no prudent person can ever reach a just conclusion that the alleged facts constitute any offence.

5. He submitted that trade worth ₹368 crores was executed on behalf of the petitioner by the complainant company over a period of more than one year after signing of the Member Client Agreement. He submitted that transaction worth ₹7.9 crores were carried out on the petitioner's instructions on 21.01.2008, however, soon afterwards, the complainant company carried illegal sales of the petitioner's shares on 22.01.2008, 23.01.2008 and 24.01.2008. He submitted that the petitioner made a complaint to the Branch Manager of India Bulls, Panaji on 24.01.2008, but after efforts to settle the dispute failed, a complaint was made to All India Mumbai Investors Forum on 14.03.2008 and to SEBI on 28.04.2008. He points out that a letter was sent by the Senior Executive Officer, National Stock Exchange informing of the closure of the petitioner's complaint in view of the explanation offered by the complainant company and offering the option of arbitration.

6. He submitted that the learned Trial Court failed to appreciate that Respondent No. 2 complainant sold the shares worth over ₹7 crores of the petitioner without express instructions of the petitioner and to the detriment and heavy loss of the petitioner. He submitted that it is only after the multiple complaints of the petitioner that the complainant company sent the legal notice dated 10.11.2008 raising

the illegal demand of ₹98,73,005/-. He submitted that no explanation was given as to how the sum of ₹98,73,005/- was arrived at and no statement of account was provided.

7. He submitted that the petitioner has filed a civil suit for recovery of money of ₹4,76,91,663/- with interest before the learned Civil Court, Panaji due to loss caused by the unauthorised transaction that was done by the complainant company. He submitted that the complainant company filed an application before the Court in Panaji for referring the matter for Arbitration, which was dismissed by the learned Civil Court. He submitted that the complainant company challenged the dismissal before the High Court of Bombay, and in those proceedings, the learned Civil Court was directed to decide the application afresh.

8. He submitted that the aforesaid facts clearly indicate that the dispute between the parties is purely civil in nature and the complainant company is giving a criminal color to the same to arm twist the petitioner.

9. He submitted that the petitioner's shares were sold on the very next day after purchase of shares on 21.01.2008 without making any margin calls, in ignorance of the period of settlement of 8-10 days to pay margin money. He submitted that no record of any margin calls was produced before the learned Trial Court, despite which, summons were issued against the petitioner. He submitted that the petitioner had deposited security margin money of ₹75 lakhs and further deposited margin monies exceeding ₹3 crores.

10. He further submitted that the Complainant Witnesses concealed the correct facts of the case and did not disclose about the civil proceedings initiated by the petitioner herein for recoveries of his monies. He submitted that the summons would not have been issued against the petitioner if Respondent No.2 company had not indulged in an aggravated form of suppression of material facts.

11. He further submitted that the petitioner is a senior citizen and he is a resident of Goa and resides outside the jurisdiction of the learned Trial Court.

12. The learned counsel for Respondent No.2 submitted that the present petition is frivolous in nature. He submitted that the impugned order is subject to revision and the petitioner had failed to avail the remedy before the Sessions Court before approaching this Court. He further submitted that the present petition was filed after 7 years of passing of the impugned order to cover the limitation period as the petitioner could not file the revision petition within 90 days.

13. He submitted that it is immaterial that the petitioner had instituted certain proceedings against the complainant company. He submitted that it is of no consequence as to who had gone first to the court because every case depends on its own facts and merit.

14. He submitted that no promise of any settlement period for repayment of margin money from the date of the transaction had been made to the petitioner and the complainant company had sold the shares of the petitioner in accordance with the agreement.

15. He submitted that it is open to the petitioner to agitate his

defence in pre-charge evidence, and if charges are framed, then in post charge evidence as well. He submitted that the inherent jurisdiction of this Court ought not to be exercised to stifle the prosecution as a *prima facie* case is made out against the petitioner as he had failed to pay the margin money even after due intimation.

ANALYSIS

16. At the outset, it is pertinent to note that the complainant has invoked the inherent jurisdiction of this Court without having availed his remedy to challenge the impugned order in revisional proceedings. It is argued on behalf of the learned counsel for Respondent No.2/ complainant company that the present petition has been preferred belatedly before this Court to overcome the hurdle of limitation in pursuing revision proceedings. It is settled law that the mere availability of an alternative remedy of criminal revision does not disentitle a litigant from grant of relief under Section 482 of the Code of Criminal Procedure, 1973 ('**CrPC**'). In the case of ***Prabhu Chawla v. State of Rajasthan*** **: (2016) 16 SCC 30**, the Hon'ble Apex Court had observed as under:

> *"**4.** Mr P.K. Goswami, learned Senior Advocate for the appellants supported the view taken by this Court in **Dhariwal Tobacco Products Ltd. [Dhariwal Tobacco Products Ltd. v. State of Maharashtra, (2009) 2 SCC 370 : (2009) 1 SCC (Cri) 806]** He pointed out that in para 6 of this judgment S.B. Sinha, J. took note of several earlier judgments of this Court including that in R.P. Kapur v. State of Punjab [R.P. Kapur v. State of Punjab, AIR 1960 SC 866 : 1960 Cri LJ 1239] and Som Mittal v. State of Karnataka [Som Mittal v. State of Karnataka, (2008) 3 SCC 574 : (2008) 2 SCC (Cri) 1 : (2008) 1 SCC (L&S) 910] for coming to the*

conclusion that : (Dhariwal case [Dhariwal Tobacco Products Ltd. v. State of Maharashtra, (2009) 2 SCC 370 : (2009) 1 SCC (Cri) 806] , SCC p. 372)

> *"6. … Only because a revision petition is maintainable, the same by itself … would not constitute a bar for entertaining an application under Section 482 of the Code."*

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6. *In our considered view any attempt to explain the law further as regards the issue relating to inherent power of the High Court under Section 482 CrPC is unwarranted. We would simply reiterate that Section 482 begins with a non obstante clause to state:*

> *"**482. Saving of inherent powers of 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."*

A fortiori, there can be no total ban on the exercise of such wholesome jurisdiction where, in the words of Krishna Iyer, J. "abuse of the process of the court or other extraordinary situation excites the Court's jurisdiction. The limitation is self-restraint, nothing more". (Raj Kapoor case [Raj Kapoor v. State, (1980) 1 SCC 43 : 1980 SCC (Cri) 72] , SCC p. 48, para 10)

We venture to add a further reason in support. Since Section 397 CrPC is attracted against all orders other than interlocutory, a contrary view would limit the availability of inherent powers under Section 482 CrPC only to petty interlocutory orders! ***A situation wholly unwarranted and undesirable.***

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8. *In our considered opinion the learned Single Judge of the High Court should have followed the law laid down by this Court in* ***Dhariwal Tobacco Products Ltd. [Dhariwal Tobacco Products Ltd. v. State of Maharashtra, (2009) 2 SCC 370 : (2009) 1 SCC (Cri) 806]****…"*

(emphasis supplied)

17. From the above, it is evident that while the High Court must exercise its inherent power sparingly, there is no bar that precludes the High Court from entertaining a petition under Section 482 of the CrPC

for securing the ends of justice of if there is any abuse of the process of law, even if a revision petition is maintainable. It cannot be ignored that the present case has been pending on the board of this Court since the year 2019 and valuable judicial time has been spent on the same.

18. Moreover, it is also important to note that the petitioner has argued that the impugned order has been passed mechanically without appreciating that the ingredients of the alleged offence are not made out. Although inherent jurisdiction ought to be exercised sparingly and the power to quash complaints ought not to be used to stifle legitimate prosecution, however, it is open to the High Court to interfere where no case is made out against the accused, even if the allegations are taken at the highest. This Court thus considers it apposite to consider the present matter on merits.

19. In the case of ***State of Haryana v. Bhajan Lal*** **: 1992 Supp (1) SCC 335**, the Hon'ble Apex Court had illustrated the category of cases where the Court may exercise its extraordinary power under Article 226 of Constitution of India or inherent jurisdiction to quash the proceedings. The relevant portion of the judgment is reproduced hereunder:

> *"**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 a criminal proceeding is 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."

(emphasis supplied)

20. The Hon'ble Apex Court in the case of ***Indian Oil Corporation v. NEPC India Limited and Others*** **: (2006) 6 SCC 736** has discussed the scope of jurisdiction under Section 482 of the CrPC to quash criminal proceedings. The relevant portion of the same is reproduced

hereunder:

> "***12.*** *The principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings have been stated and reiterated by this Court in several decisions. To mention a few— Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre [(1988) 1 SCC 692 : 1988 SCC (Cri) 234] , State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , Rupan Deol Bajaj v. Kanwar Pal Singh Gill [(1995) 6 SCC 194 : 1995 SCC (Cri) 1059] , Central Bureau of Investigation v. Duncans Agro Industries Ltd. [(1996) 5 SCC 591 : 1996 SCC (Cri) 1045] , State of Bihar v. Rajendra Agrawalla [(1996) 8 SCC 164 : 1996 SCC (Cri) 628] , Rajesh Bajaj v. State NCT of Delhi [(1999) 3 SCC 259 : 1999 SCC (Cri) 401] , Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd. [(2000) 3 SCC 269 : 2000 SCC (Cri) 615] , Hridaya Ranjan Prasad Verma v. State of Bihar [(2000) 4 SCC 168 : 2000 SCC (Cri) 786] , M. Krishnan v. Vijay Singh [(2001) 8 SCC 645 : 2002 SCC (Cri) 19] and Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque [(2005) 1 SCC 122 : 2005 SCC (Cri) 283] . The principles, relevant to our purpose are:*
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> *(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.***
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> ***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.***
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> *(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 mala fides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.*
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> *(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.***
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> *(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.*
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> *(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 proceeding 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.***"
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> (emphasis supplied)

21. As opined in the aforesaid cases and noted above, the test is whether the uncontroverted allegations in the FIR *prima facie* disclose commission of a cognizable offence. However, the Court ought to look into the complaint with care and a little more closely in case it finds that the proceedings are manifestly frivolous or vexatious or are instituted with the ulterior motive of wreaking vengeance. In such circumstances, the Court can look into the attending circumstances emerging from the record of the case and can read between the lines.

22. In the present case, it is alleged that the petitioner dishonestly induced the complainant company into opening an account in his name and advancing margin money to him with the *mala fide* intention to cheat the complainant company. It is alleged that the petitioner made false promises and representations while executing the member client agreement, even though he knew that the same would not be honoured

by him. It is alleged that the petitioner refused to pay the due amount despite multiple margin calls.

23. It appears from the record that the arrangement between the parties was such that the petitioner could purchase certain shares by paying a fraction of the price, and the margin had to be paid by the petitioner either in cash or by way of maintaining sufficient securities in his account. The complainant company was required to make a margin call for any deficit in the account and the petitioner was under an obligation to pay the deficit.

24. The learned Trial Court has noted in the impugned order that a *prima facie* case under Section 420 of the IPC is made out against the petitioner by placing reliance on the judgment in the case of ***R. Kalyani v. Janak C Mehta & Ors.*** **: Criminal Appeal No. 1694 of 2008**. In that case, the accused had maintained an account in the name of the complainant without her consent. The accused had further promised to take over the liabilities of the company's account, pay the balance in the account as well as the value of the purchased shares that had been bought earlier, but neglected to do so. In these circumstances, the Hon'ble Apex Court had refused to quash the FIR against the accused noting that the accused had traded shares of the complainant without her consent.

25. Although the learned Trial Court has aptly taken note of the facts of the present case which relate to alleged inducement on part of the petitioner for availing the margin facility to apparently cheat the complainant out of the margin money, no deference has been paid to

the evidence of the complainant witnesses or any other material on record and summons have been issued by taking note of the opinion expressed in the case of ***R. Kalyani v. Janak C Mehta & Ors.*** (*supra*), which is clearly distinguishable on facts as there is evident criminal intent on part of the accused therein. The impugned order is unreasoned and summons have been arbitrarily issued against the petitioner.

26. Issuance of summons is a serious issue and it is thus imperative that the summoning order shows due application of mind and examination of the facts of the case as well as the evidence on record. In the case of ***Pepsi Foods Ltd. and Another v. Special Judicial Magistrate and Others*** **: (1998) 5 SCC 749**, the Hon'ble Apex Court had observed as under:

> *"**28. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course.** It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. **The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. The Magistrate has to carefully scrutinise the evidence brought on record** and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.*
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> ***29.** No doubt the Magistrate can discharge the accused at any stage of the trial if he considers the charge to be groundless, but*

> *that does not mean that the accused cannot approach the High Court under Section 482 of the Code or Article 227 of the Constitution to have the proceeding quashed against him when the complaint does not make out any case against him and still he must undergo the agony of a criminal trial....”*
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> (emphasis supplied)

27. There is no allegation in the present case that the petitioner transferred the shares so purchased by availing the margin facility from his account with the complainant company so as to restrict the complainant company from appropriating the margin money.

28. Although the learned Magistrate has recorded its satisfaction about the existence of a *prima facie* case in the impugned order, however, as discussed above, on a bare perusal of the complaint as well as the pre-summoning evidence, the said observation seems to be without any application of mind. Merely taking note of the facts of the case and recording *prima facie* satisfaction, without giving any reasons for the same, is insufficient. As noted above, in the present case, the learned Trial Court has made an overarching reference to the evidence by stating that the same discloses commission of offence under Section 420 of the IPC, without actually appreciating or scrutinizing the material.

29. It is argued on behalf of the learned counsel for the petitioner that the ingredients for the offence under Section 420 of the IPC are not made out in the present case and the dispute is essentially civil in nature. This Court finds merit in the said argument. The fulcrum of the dispute is essentially in relation to payment of margin money wherein the petitioner is alleging that his shares had been illegally sold by the

complainant company. While this Court does not deem it appropriate to venture into the credibility of the said assertions, it is relevant to note that the alleged sale was admittedly made close to ten months before the issuance of the legal notice. It is not elaborated as to why the complainant company did not issue the legal notice for the dues in the intervening time. Moreover, even though the entire case of the complainant rests on the allegation that the petitioner deliberately evaded payment despite due notice by way of margin calls, no particulars have been pleaded in the complaint nor stated by the complainant witnesses as to when the alleged margin calls were made in relation to the dues.

30. The dispute essentially relates to breach of the contract between the parties. Although presence of civil remedies do not preclude continuation of criminal proceedings, it is settled law mere breach of contract does not give rise to the offence of cheating and it is to be shown that the accused had a dishonest intention at the time of making the promise. In the case of ***Vesa Holdings (P) Ltd. v. State of Kerala* : (2015) 8 SCC 293**, the Hon'ble Apex Court held as under:

> "*12. From the decisions cited by the appellant, the settled proposition of law is that* ***every breach of contract would not give rise to an offence of cheating and only in those cases breach of contract would amount to cheating where there was any deception played at the very inception****. If the intention to cheat has developed later on, the same cannot amount to cheating.* ***In other words for the purpose of constituting an offence of cheating, the complainant is required to show that the accused had fraudulent or dishonest intention at the time of making promise or representation.*** *Even in a case where allegations are made in regard to failure on the part of the accused to keep his promise, in*

the absence of a culpable intention at the time of making initial promise being absent, no offence under Section 420 of the Penal Code, 1860 can be said to have been made out."

(emphasis supplied)

31. Although it is repeatedly averred that it was the intention of the petitioner to dupe and cheat the complainant company from the very start, however, it is not denied that the petitioner had paid substantial margin money on previous occasions and the business relation between the parties continues smoothly in the year 2007. The complainant company has been unable to establish that it was the intention of the petitioner to cheat them from the very beginning and bald assertions in this regard are insufficient. The evidence of the complainant witnesses also does not assist the case of the complainant company as they have not elaborated either on the aspect of inducement or provided any particulars to show deliberate evasion by the petitioner either. From the evidence on record, it is unclear as to when the first demand was made as well. Even if the case of the complainant is taken at the highest, merely because the petitioner failed to pay the margin money in response to the legal notice, the same would not prove that the petitioner's intention was to cheat the complainant company from the very inception. Thus, the offence under Section 420 of the CrPC is not made out against the petitrioner.

32. It appears that the complainant company has sought to give a criminal cloak to civil proceedings to recover the dues allegedly payable to it. Criminal proceedings ought not to be misuses to wreak vengeance or harass the other side. In the case of ***Paramjeet Batra v.***

***State of Uttarakhand*: (2013) 11 SCC 673**, the Hon'ble Apex Court had noted that where the allegations are essentially of a civil nature, the High Court should not hesitate to quash the proceedings. The relevant portion of the judgment is as under:

> "***12.*** *While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture.* ***But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence.*** *In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process of the court."*
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> (emphasis supplied)

33. *Prima facie*, the allegations taken at their face value, do not disclose an element of criminality and commission of a cognizable offence. In such circumstances, continuation of proceedings against the petitioner, who is a senior citizen, would be an abuse of the process of law and merit the exercise of the jurisdiction of this Court under Section 482 of the CrPC.

34. In view of the aforesaid discussion, the impugned order is set aside. The present petition is allowed in the aforesaid terms. Pending application stands disposed of.

AMIT MAHAJAN, J

JUNE 23, 2025