

**REPORTABLE**

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. _____ OF 2024
(ARISING OUT OF SLP (CRL.) NO. 1570 OF 2021)

NARESH KUMAR & ANR.

...APPELLANTS

VERSUS

THE STATE OF KARNATAKA & ANR.

...RESPONDENTS

J U D G M E N T

SUDHANSHU DHULIA, J.

Leave granted.

2. The appellants before this Court have challenged the order dated 02.12.2020 of the Karnataka High Court by which their petition under Section 482 of Criminal Procedure Code for quashing the FIR has been dismissed. The case of the appellants before the High Court of Karnataka was

that the FIR which was instituted by the complainant i.e. respondent no. 2 is primarily a civil dispute and has no criminal element and the entire criminal proceedings initiated against the appellants is nothing but an abuse of the process and consequently, they had invoked the extraordinary powers of the High Court under Section 482 of the Criminal Procedure Code. The two appellants before this Court are the Assistant Manager (Marketing) and the Managing Director of a company, which is a manufacturer of bicycles. Respondent no.2 was given a contract, as it has been stated before this Court, for the assembly of bicycles, their transport and their delivery, at the rate of Rs.122/- for each bicycle, and since they had assembled 83,267 bicycles, they raised invoices amounting to Rs. 1,01,58,574/- and were liable to be paid the same. However, respondent no.2 contends that instead, a payment of only Rs.35,37,390/- was given by the appellants. Hence, it was a case of criminal breach of trust and cheating and the First Information Report No. 113 of 2017 against the appellant no. 1 was filed on 24.05.2017 under Sections 406, 420 and 506 of the Indian Penal Code at P.S. Doddaballapura, Bangalore Rural District.

Subsequently, a Chargesheet dated 30.05.2019, was filed in the court where both the appellants were made an accused.

3. Meanwhile, an important fact occurred, of which no importance seems to have been given by the High Court. Subsequent to the filing of FIR there is an admitted settlement between the appellants and respondent No. 2 by a Compromise Deed dated 27.12.2017 by which as a full and final settlement between the two parties, an additional amount of Rs. 26 lakhs were to be paid by the appellant, which has been duly given and accepted. This amount was deposited in the account of respondent no. 2 on 29.12.2017. This was done by the appellants in order to give a quietus to the whole situation and to bring peace, according to the appellants. Therefore, as of now, a total amount of Rs.62 lakhs as against Rs. 1,01,58,574/- which was claimed by the complainant has been admittedly paid. The case of the respondent no. 2 against the settlement dated 27.12.2017 is that the respondent no. 2 was coerced in entering into this settlement and this is not a settlement arrived at by the free will of the complainant and therefore the prosecution of the appellants is necessary under the

criminal law. The High Court has refused to accept the contention of the appellants that the dispute between the parties in any case is civil in nature. The High Court was of the opinion that since the appellants had claimed that the complainant assembled only 28,995 bicycles, which would make them liable to pay only an amount of Rs.35 lakhs, but instead the appellants had paid an amount of Rs.62 lakhs which shows that the actual number of bicycles which were assembled by the complainant was much more than 28,995 bicycles, as claimed by the appellants and therefore, the appellants had an intention to cheat the complainant right from the beginning. Thus, it was held by the High Court that *prima facie* a case of cheating is made out against the appellants.

4. Having heard the learned counsel for both the parties, we are of the considered view that the findings of the High Court on this aspect are not correct. We do not agree with the findings arrived at by the High Court for two reasons. Firstly, the dispute between the parties is primarily, civil in nature. It is after all a question of how many bicycles the complainant had assembled and the dispute between the parties is only regarding the figure of bicycles and

consequently of the amount liable to be paid. This is a civil dispute. The complainant has not been able to establish that the intention to cheat the complainant was there with the appellants right from the beginning. Merely because the appellants admit that only 28,995 bicycles were assembled, but they have admittedly paid an amount of Rs. 62,01,746/- to the complainant, which is of a much higher number of bicycles, would not prove that the intention of the appellants right from the beginning was to cheat. This amount i.e. the additional amount of Rs. 26 lacs have been paid by the appellants pursuant to a settlement. The reasons and the logic for arriving at a settlement are quite different. In this case it seems, it is primarily to bring a quietus to the dispute and to have peace and to avoid litigation. The mere fact that the appellants have paid an additional amount pursuant to the settlement, cannot be presumed as an act of cheating. Moreover, the complainant does not deny the fact that a settlement was reached between the parties though he says he was coerced into the settlement. He does not dispute that the additional amount paid by the appellants under the terms of the compromise deed, which is an

amount of Rs.25,75,442 (after deducting TDS) was received by the complainant, as this amount has been received in a bank transaction through NEFT on 29.12.2017. The allegation that the complainant was coerced into a settlement, looks unlikely for two reasons. First, there is no FIR or Complaint that the complainant was coerced into this settlement. Secondly, this amount was duly accepted by the complainant.

5. Under these circumstances, we are of the considered view that this is a case where the inherent powers should have been exercised by the High Court under Section 482 of the Criminal Procedure Code as the powers are there to stop the abuse of the process and to secure the ends of justice.
6. In the case of ***Paramjeet Batra v. State of Uttarakhand (2013) 11 SCC 673***, this Court recognized that although the inherent powers of a High Court under Section 482 of the Code of Criminal Procedure should be exercised sparingly, yet the High Court must not hesitate in quashing such criminal proceedings which are essentially of a civil nature. This is what was held:

“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.***”

(emphasis supplied)

Relying upon the decision in **Paramjeet Batra** (supra), this Court in **Randheer Singh v. State of U.P. (2021) 14 SCC 626**, observed that criminal proceedings cannot be taken recourse to as a weapon of harassment. In **Usha Chakraborty & Anr. v. State of West Bengal & Anr. 2023 SCC OnLine SC 90**, relying upon **Paramjeet Batra** (supra) it was again held that where a dispute which is essentially of a civil nature, is given a cloak of a criminal offence, then such disputes can be quashed, by exercising

the inherent powers under Section 482 of the Code of Criminal Procedure.

7. Essentially, the present dispute between the parties relates to a breach of contract. A mere breach of contract, by one of the parties, would not attract prosecution for criminal offence in every case, as held by this Court in ***Sarabjit Kaur v. State of Punjab and Anr. (2023) 5 SCC 360***. Similarly, dealing with the distinction between the offence of cheating and a mere breach of contractual obligations, this Court, in ***Vesa Holdings (P) Ltd. v. State of Kerala, (2015) 8 SCC 293***, has held that every breach of contract would not give rise to the offence of cheating, and it is required to be shown that the accused had fraudulent or dishonest intention at the time of making the promise.
8. In the case at hand, the dispute between the parties was not only essentially of a civil nature but in this case the dispute itself stood settled later as we have already discussed above. We see no criminal element here and consequently the case here is nothing but an abuse of the process. We therefore allow the appeal and set aside the order of the High Court dated 02.12.2020. The criminal

proceedings arising out of FIR No.113 of 2017 will hereby stand quashed.

.....**J.**
[SUDHANSHU DHULIA]

.....**J.**
[PRASANNA B. VARALE]

New Delhi.
March 12, 2024.