



2026:DHC:86



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Reserved on: 7th November, 2025**
Pronounced on: 07th January, 2026

+ **W.P.(CRL) 2165/2019 & CRL.M.A. 32848/2019**

ARUN KUMAR BAGLA

S/o Late Sh. S.N. Bagla,
5H, New Road, Kolkata

.....Petitioner

Through: Mr. Rohit Priya Ranjan and
Ms. Aayushi, Advocates

versus

M/S SCJ PLASTICS LTD

Regd. Office: F-3/10-11,
Okhla Industrial Area, Phase-I
New Delhi - 110020

.....Respondent

Through: Ms. Smita Maan, Advocate

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. The present Petition has been filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.) seeking quashing of the impugned Order on Charge dated 04.09.2018 of the Ld. Metropolitan Magistrate (MM), in Complaint Case No. 619556/16 titled *SCJ Plastics vs. Creative Wares Ltd.*

2. The Petitioner further challenges the Order dated 30.04.2019 passed by the Ld. Additional Sessions Judge (ASJ), in Criminal Revision No. 745/2018, whereby the Revisional Court dismissed the revision petition and



upheld the order of the Ld. MM framing charges against the Petitioner under Section 420 of the Indian Penal Code (IPC).

3. Briefly stated, the Petitioner/Arun Kumar Bagla was the Managing Director of *M/s Creative Wares Ltd.* (hereinafter referred to as “the Accused Company”). The Respondent/Complainant, *M/s SCJ Plastics Ltd.*, is engaged in the business of Master Batches and compounds. The Accused Company had business dealings with the Respondent.

4. It is alleged that between 22.02.1999 and 13.08.2001, the Petitioner, on behalf of the Accused Company, placed Orders for Master batches worth Rs. 26,13,706/- on credit. The Respondent alleges that despite assurances of payment, the Accused Company failed to clear the outstanding dues. Consequently, the Respondent filed a Civil Suit for Recovery bearing CS(OS) No. 738/2002 before this Hon’ble Court on 30.03.2002.

5. During the pendency of the Civil Suit, the Accused Company filed an Application under Section 22 of the Sick Industrial Companies Act (SICA), 1985, seeking a stay of proceedings on the ground that a reference (Case No. 47/2001) had been registered with the Board for Industrial and Financial Reconstruction (BIFR), on 31.01.2001. The BIFR eventually declared the Accused Company as a “Sick Industrial Company” *vide* Order dated 09.04.2002.

6. The Respondent instituted the underlying Criminal Complaint bearing No. CC No. 502/01 on 24.02.2005, approximately three years after filing the Civil Suit, alleging that the Petitioner/Accused Company induced the Respondent to supply goods by concealing the material fact that the Company had already approached the BIFR and was suffering losses. This concealment was alleged to constitute cheating under Section 420 IPC.



7. *Vide* the Impugned Order dated 04.09.2018, the Ld. MM observed that since the Accused No. 1/Company had been struck off by the Registrar of Companies (ROC), the Complaint against the Company stood dismissed. However, the Ld. MM proceeded to frame charges solely against the Petitioner/Accused No. 2 under Section 420 IPC.

8. The Criminal Revision filed by the Petitioner to challenge the order on Charge, was dismissed by the Ld. ASJ *vide* the Impugned Order dated 30.04.2019.

9. The Petitioner challenges the impugned orders primarily on the grounds that the *dispute is purely of a civil nature* regarding the recovery of money for goods supplied. The Respondent had already availed the civil remedy by filing a suit in 2002, ***which was eventually decreed***. The Criminal Complaint filed in 2005, after a delay of three years, is an abuse of the process of law intended to arm-twist the Petitioner.

10. The Petitioner contends that *the concept of vicarious liability* is unknown to the Indian Penal Code. Since the Complaint against the principal offender i.e. the Company was dismissed by the Ld. MM, the Petitioner, being the Managing Director, cannot be prosecuted vicariously in the absence of specific allegations of personal inducement or fraudulent intent attributed to him, distinct from the Company's acts.

11. The Petitioner submits that partial payments of Rs. 2.25 Lacs were made to the Respondent during the course of business. Citing settled law, mere failure to pay a debt does not amount to cheating unless dishonest intention is shown at the very inception of the transaction. The subsequent financial difficulty or BIFR Reference does not retrospectively create criminal liability.



12. The Petitioner relies heavily on the cross-examination of the Complainant's witness *CW-3/Sh. Deepak Kumar*, wherein the witness admitted that the Respondent continued supplies to maintain business relations and not solely based on any specific representation. Further, the witness admitted that the Petitioner was not a party to the Civil Recovery Suit.

13. *The Ld. Counsel for the Respondent* supports the impugned Orders, arguing that the Petitioner, being the Managing Director, was the "alter ego" of the Company and was actively involved in the day-to-day affairs.

14. It is contended that the act of placing Orders while concealing the fact that the Company had already applied to the BIFR, constitutes "*dishonest concealment of facts*" under the Explanation to Section 415 IPC.

15. The Respondent further asserts that the existence of a civil remedy does not bar criminal proceedings, if the ingredients of a criminal offense are made out.

Submissions Heard And Record Perused.

I. Offence of Cheating:

16. The Petitioner, who was the Managing Director of the accused Company, has been summoned for the offence of cheating punishable under S. 420 IPC, which reads as under:

"420. Cheating and dishonestly inducing delivery of property –

Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be



punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

17. The Apex Court in Delhi Race Club (1940) Ltd vs The State of Uttar Pradesh, 2024 INSC 626, has reiterated the essential ingredients for Offence under S. 420 IPC, in the following manner:

“In order to constitute a criminal breach of trust (Section 420 IPC)

1) deception of any person, either by making a false or misleading representation or by other action or by omission;

2) fraudulently or dishonestly inducing any person to deliver any property, or

3) the consent that any persons shall retain any property and finally intentionally inducing that person to do or omit to do anything which he would not do or omit”

18. Further, in Inder Mohan Goswami vs. State of Uttaranchal, (2007) 12 SCC 1, while dealing with Section 420 IPC, this Court observed thus:

*“42. On a reading of the aforesaid section, it is manifest that in the definition there are two separate classes of acts which the person deceived may be induced to do. **In the first class of acts he may be induced fraudulently or dishonestly to deliver property to any person.** The second class of acts is the doing or omitting to do anything which the person deceived would not do or omit to do if he were not so deceived. In the first class of cases, the inducement must be fraudulent or dishonest. **In the second class of acts, the inducing must be intentional but need not be fraudulent or dishonest. Therefore, it is the intention which is the gist of the offence.** To hold a person guilty of cheating it is necessary to show that he had a fraudulent or dishonest intention at the time of making the promise. From his mere failure to subsequently keep a promise, one cannot presume*



that he all along had a culpable intention to break the promise from the beginning.”

19. Thus, for an act to constitute *Cheating under Section 420 IPC*, it is essential to prove that the accused had ***a fraudulent or dishonest intention at the time of making the promise.***

20. CW-3/Deepak Kumar, in his cross-examination dated 08.06.2018, reveals a crucial admission:

“It is correct that the complainant company used to supply the material from time to time to the accused company as the complainant company was not wanting to lose the business relationship with the accused company and not on account of any fraudulent representation or false promise.”

21. This admission establishes that there was no dishonest intention on the part of the Accused but the parties had entered into a commercial transaction and the complainant had continued his business dealings as he *“was not wanting to lose the business relationship with the accused company.”* It clearly demolishes the allegation of *“inducement”* required for Section 420 IPC.

22. Moreover, the Accused Company had made partial payments amounting to Rs. 2.25 Lakhs to the Respondent. If the goods were supplied to maintain business relations and not because of any specific representation by the Petitioner, the charge of cheating cannot stand.

23. A mere breach of contract or failure to pay cannot give rise to criminal prosecution.

24. In *Hridaya Ranjan Prasad Verma & Ors. v. State of Bihar & Anr.*, (2000) 4 SCC 168, the Apex Court held that the distinction between mere breach of contract and cheating depends upon the intention of the accused at



the time of inducement. The fact that business transactions were ongoing and payments were being made initially negates the element of dishonest intention at the inception.

25. The allegations taken on the face of it reveal nothing more than usual business transactions. It is alleged that the Accused No. 2 was dealing on behalf of the Accused Company and *promised* to make the payments in time.

26. It is therefore, established that there was *no dishonest intention*, which is the pre-requisite to attract the offence of Cheating. Thus, it cannot be said that any offence under S. 420 is disclosed.

II. Liability of the Director:

27. *The second aspect* which is of relevance is the *liability of the Managing Director, dehors the Company.*

28. The Ld. MM, in the Order dated 04.09.2018, dismissed the Complaint against the Company/Accused No. 1 because it was struck off by the ROC, but directed to frame Charges against the Petitioner/Accused No. 2.

29. It is a fundamental principle of criminal jurisprudence that there is no vicarious liability in the IPC unless the statute specifically provides for it as under Section 141 NI Act. A Director cannot be held liable for the acts of the Company solely by virtue of his position.

30. It may also be noted that where Company is an accused, it, being a juristic person, cannot be arrested or imprisoned. Section 305 CrPC provide for the person to represent the accused Company.

31. The proper procedure is to issue a summons to the Company, which can then appoint an Authorized Representative (AR) to represent the



accused Company in criminal proceedings. Specific allegations of active involvement and individual criminal intent are required.

32. In *Sushil Sethi and Anr. v. The State of Arunachal Pradesh and Ors.* (2020) 3 SCC 240, the Supreme Court held that for an offense under Section 420 IPC, it is essential that the Company is made an accused and the specific role of the Director is elucidated.

33. In this regard, it would also be appropriate to refer to the recent judgment of the Apex Court in *Sanjay Dutt & Ors. vs. The State of Haryana & Anr.*, 2025 INSC 34, wherein the Apex Court observed that “*a director may be vicariously liable only if the company itself is liable in the first place and if such director personally acted in a manner that directly connects their conduct to the company’s liability.*”

34. The Complainant has specifically alleged that it was accused no. 2 who was dealing on behalf of the accused Company and that Complainant Company supplied goods to the accused Company on the assurance of Accused no. 2.

35. Furthermore ***CW-3/Sh. Deepak Kumar*** during the course of his deposition has stated that accused no. 2 is the promoter and Managing Director of accused Company who was managing all of its affairs and that accused no. 2 on behalf of and in the name of accused Company had purchased from the Complainant Company master batches for a sum of Rs. 26,13,706/- and after the order was placed, accused no. 2 promised the Complainant Company that he will make payment against the purchases made.

36. The allegations merely describe Accused No. 2 performing his statutory and executive duties as a Managing Director. To sustain a charge



against him, the Complainant was required to show specific acts of *personal* fraudulent intention or personal gain, distinct from the corporate entity's business operations. The deposition of CW-3 confirms that Accused No. 2 acted solely "on behalf of and in the name of" the Company, thereby attributing the transaction to the corporate entity, not the individual.

37. The "assurance" of payment mentioned in the allegations is a standard commercial representation made in the ordinary course of business. Every purchase on credit involves an implied or express promise to pay.

38. The subsequent failure of the Company to honour this promise, due to financial incapacity or BIFR status, renders the dispute civil in nature. It does not automatically translate into criminal cheating on the part of the Director. Without evidence showing that Accused No. 2 knew *at the time of the promise* that the money would definitely not be paid, the "assurance" cannot be labelled as a fraudulent inducement.

39. Since the complaint against the Company has been dismissed/abated, the prosecution of the Director becomes legally unsustainable. The Director cannot be held criminally liable for the Company's financial status or its corporate debts when the Company itself is no longer being prosecuted.

40. Therefore, in the absence of specific allegations attributing a personal act of deception or misappropriation to Accused No. 2, and given that he acted merely as an agent of a principal Company - that is no longer an accused, the ingredients for an offence under Section 420 IPC are not made out against him personally. The continuation of the trial against Accused No. 2 would be an abuse of the process of law.

41. *Thus, the allegations, even if taken on the face of it does, not disclose any offence having been committed by the Accused/Petitioner.*



III. Whether the Complaint is liable to be quashed:

42. To assess whether the Complaint is liable to be quashed in view of the aforesaid analysis, it is further required to be seen, if continuing with the Complaint would bear any fruit or amounts to be an abuse of the process of court.

43. It is a settled proposition of law that the machinery of criminal justice should not be allowed to be utilized for the settlement of civil disputes. The Apex Court in *Indian Oil Corporation v. NEPC India Ltd. & Ors.*, (2006) 6 SCC 736, cautioned against the tendency to convert civil disputes into criminal cases to put pressure on the other side.

44. In the present case, the transaction is purely commercial, involving the sale and purchase of master batches. The Respondent had already filed a Civil Suit (CS No. 738/2002) for Recovery, three years prior to filing the Criminal Complaint, which was filed in 2005, only after the proceedings in the Civil Suit were stayed due to the SICA proceedings.

45. This timeline clearly that the Criminal Complaint was an afterthought and a tool to exert pressure for the recovery of dues.

46. In view of the discussion above, this Court finds that the dispute is purely civil in nature, for which a civil decree has already been passed. The essential ingredient of “*dishonest intention at inception*” is absent, evidenced by partial payments and the admission of CW-3.

47. The admission by the Complainant’s witness that supplies were made to maintain business relations negates the element of inducement by the Petitioner.



48. The continuation of criminal proceedings against the Director, after the Company has been dropped and where the dispute is essentially contractual, would amount to an abuse of the process of the court.

49. In view of *Bhajan Lal* (supra) where the Apex Court held that “*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*”, this Court is constrained to exercise its inherent power under S.482 to prevent abuse of the process of any Court.

Order:

50. Accordingly, the Petition is **allowed**.

51. The impugned Order on Charge dated 04.09.2018 passed by the Ld. MM and the Order dated 30.04.2019 passed by the Ld. ASJ are hereby quashed.

52. The Petitioner/Arun Kumar Bagla stands discharged from the offense under Section 420 IPC in the subject Complaint Case.

53. Pending Applications, if any, stand disposed of accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

JANUARY 07, 2026/RS