



2025:DHC:10300



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

% *Date of Decision: 11th November, 2025*

+ **W.P.(CRL.)2717/2024**

DINESH DANDONA
S/o Om Prakash Dandona
R/o 254, Silver Enclave,
Ludhiana Punjab-141001.

....Petitioner

Through: Mr. Amitabh Sinha and Mr. Anupam
Pandey, Advocates

Versus

1. **STATE**
Through SHO,
Police Station Punjabi Bagh,

2. **KARTIK MOHINDRA**
S/o Vinod Kumar Mohindra
R/o 7/54, First Floor,
West Punjabi Bagh,
New Delhi-110026.

....Respondents

Through: Ms. Rupali Bandhopadhyaya, ASC with
Mr. Abhijeet Kumar and Ms. Amisha
Gupta, Advocates for the State
Mr. Nakul Ahuja, Mr. Sohil Sharma
and Mr. Akshay Pratap Singh,
Advocates for Complainant

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.



1. Writ Petition under Article 226 of the Constitution of India, 1950 read with Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C."*) / Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed on behalf of the Petitioner, Dinesh Dandona seeking quashing of the Order dated 18.12.2023 passed by the Ld. MM, Delhi in an Application under Section 156(3) in Ct. Case 399/2023 pursuant to which FIR No. 02/2024 dated 02.01.2024 was registered at P.S. Punjabi Bagh.

2. ***The brief facts are that*** the Complainant/Respondent No.2 Kartik Mohendra filed a Complaint under Section 200 Cr.P.C before the Court of Ld. M.M, wherein it was stated that he was engaged in the business of import and export of various items and he planned to export domestic sewing machines. He started looking for the sewing machine manufacturers on the internet and found one ***M/s Rex Sewing Machine Company Private Limited, Ludhiana***. He then got the number of Dinesh Dandona, Petitioner and had discussions with him, in furtherance of which the Complainant/ Kartik Mohendra visited his factory premises in Ludhiana in the month of June, 2021 where Dinesh Dandona introduced himself to be the MD of the above Company. He represented that though it is a Private Limited Company, but he is the whole and sole In-charge of the business and the current affairs of the Company and he is the only person who is conducting dealings in the Company.

3. The Complainant/ Kartik Mohendra agreed for purchase of 530 pieces of *domestic sewing machine* for a price of Rs.2300/- plus GST per piece. Peitioner, Dinesh issued a proforma Invoice RW2A1 dated 21.06.2021 for



Rs.13,65,280/- against which the Complainant/Kartik Mohendra paid advance of Rs.3,500,000/- on 22.06.2021, as was agreed between them.

4. However, Mr. Dinesh failed to supply even a single piece of domestic sewing machine despite several request and he kept on putting of the matter with one excuse or the other. It became clear that he never intended to supply any machine and had defrauded him, to get a huge amount of money. Ultimately in August, 2021 several Whatsapp messages were exchanged in this regard and the Complainant accepted the delay and again requested time in its Whatsapp chats which were exchanged over a period of six months. However, every time he asked for 3-4 more days which makes his intention evident of not paying the amount back to the Complainant/ Kartik Mohendra. It was asserted that he has been looted of an amount of Rs.3,500,000/-, and thus, sought the registration of FIR.

5. The Complaint under Section 200 Cr.P.C was supported with an Application under Section 156(3) Cr.P.C. The Ld. M.M, Delhi *vide* Order dated 18.12.2023 considered the record and observed that all the facts and circumstances taken together, hint at commission of a cognizable offence which needs to be investigated. *Consequently, the Application under Section 156(3) Cr.P.C was allowed and directions were issued to Police Station Punjabi Bagh for registration of FIR* which resulted in the FIR No.02/2024 under Section 420 IPC dated 02.01.2024.

6. The Petitioner has filed the present Writ Petition seeking quashing of the Impugned Order dated 18.12.2023 as well as the FIR No.02/2024 on the **grounds** that the Impugned Order of Ld. M.M is a cryptic non-speaking Order and is bereft of any reason substantiating the necessity for investigations/registration of FIR, which is in the teeth of settled principles



of law. There was no *prima facie* finding of a cognizable offence being disclosed in the Complaint. Furthermore, the allegations made in the FIR would reveal that no substance, material existed to show that there was an intention to cheat *de facto* since the inception of the Contract/transaction, which is the *sine qua non* of making out a case under Section 420 IPC. Furthermore, it has not been considered that even a *prima facie*.

7. It is further submitted that the Complainant himself had visited the factory premises of the Petitioner and it is only after conducting due diligence that he entered into the Contract with open eyes. Therefore, the element of dishonest inducement since the inception is *prima facie* absent in the facts of this case. The criminal proceedings have been initiated by the Complainant with an ulterior motive of wreaking vengeance against the Petitioner, Dinesh Dandona.

8. It is explained that due to prevailing Covid-19 Pandemic conditions and restrictions imposed by Government of India, the entire supply chain of raw material was severally affected. This had a severe impact on the manufacturing operations as well as the finances of the Petitioner's Company and thus, the timely delivery of the machines was stalled. The Petitioner had offered to supply the machines to Respondent No.2 *albeit* at a belated stage. However, the Respondent No.2 blatantly refused the offer and sought refund of the advance amount of Rs.3,500,000/-. The Respondent No.2 is guilty of suppressing material facts and approaching this Court with unclean hands as the Petitioner had remitted Rs.50,000/- to the Complainant on 08.04.2022 which has not been disclosed in the Complaint.

9. It is asserted that delay in delivery was occasioned solely by the disruption of the supply chain due to unforeseen circumstances arising from



on spread of Covid-19 Pandemic. A reference is made to M/s GHCL Employees Stock Option Trust vs. M/s India Infoline Limited 2013 (4) SCC 505, wherein it was held that where the acts alleged would predominantly be a civil wrong, then such act does not constitute a criminal offence. Reliance is also placed on Vesa Holdings P. Ltd. and Ors. vs. State of Kerala and Ors. (2015) 8 SCC 293, wherein similar observations were made by the Apex Court. It was held that the real test for establishing a criminal offence is whether the allegations in the Complaint disclose the criminal offence of cheating or not.

10. The Contract was executed between one M/s. Rainbow International (of the Complainant) and M/s Rex Sewing Machine Co. Ltd. in which the Petitioner is the Director. The Application under Section 156(3) Cr.P.C has been filed without arraigning the Company as the Accused. On this ground as well the Order under Section 156(3) Cr.P.C is liable to be set aside. Reliance is placed on Sharad Kumar Sanghi vs. Sangita Rane (2015) 12 SCC 781.

11. It is further claimed that the Investigating Agency had not issued a Notice under 41A Cr.P.C, to the Petitioner which is contrary to the principles enunciated by the Apex Court in Arnesh Kumar vs. State of Bihar (2014) 8 SCC 273. Further reliance is placed on State of Haryana vs. Ch. Bhajan Lal, 1992 SCC (Cri) 426, wherein principles were laid down in the light of which the FIR against the Petitioner deserves to be quashed.

12. A prayer is made that the Order of Ld. M.M dated 18.12.2023 allowing the Application under Section 156(3) Cr.P.C and consequent registration of FIR No.02/2024 dated 02.01.2024 and all the consequential proceedings therefrom be quashed.



13. **Status Report has been filed on behalf of the Respondent/State** wherein the facts leading to the registration of the present FIR have been detailed. It is submitted that during investigation, a Notice under Section 91 Cr.P.C. dated 10.06.2024 was issued to the Complainant, Sh. Kartik Mohindra, to produce documents pertaining to the payment made by him. The reply was received along with the RTGS form, the proforma Invoice dated 21.06.2021, bank statements, and copies of chats/conversation between the Complainant/Respondent No. 2 and the Petitioner.

Submissions heard and record perused.

14. Admittedly, during the peak of Covid-19 in June, 2021 after tracing the Petitioner through internet, the Complainant approached him for purchase of 530 pieces of domestic sewing machines for Rs.2300/- plus GST per piece. The Contract was further fortified by issuing of a proforma Invoice dated 21.06.2021 for Rs.13,65,280/- against which the Complainant paid Rs.3,50,000/- on 22.06.2021 as an advance, as agreed between the parties.

15. Pertinently, after entering into this Contract, the Petitioner failed to supply even a single machine despite repeated requests and Whatsapp communications between the Complainant and the Petitioner, . Admittedly, till date aside from Rs.50,000/- which was paid on 08.04.2022, no further amount has been paid. The Petitioner has failed to honour his own commitment. Not a single sewing machine has been supplied by him till date.

16. The offence of '**cheating**' is defined under Section 415 IPC which reads as under:



Section 415: Cheating - Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat".

17. Section 420 IPC provides for the punishment of *cheating and dishonestly inducing delivery of property* and it reads as under;

Section 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.

18. The essential ingredients to constitute an offence of ***cheating*** were considered in the case of *S.W. Palanitkar vs. State of Bihar* (2002) 1 SCC 241, wherein the essential ingredients to constitute the offence of cheating were held to be :

- (i) *there should be fraudulent or dishonest inducement by a person by deceiving him;*
- (ii) (a) *the person so deceived should be induced to deliver any property to any person or to consent that any person shall retain any property or*
 - (b) *the person so deceived should be intentionally induced to do or omit to do anything which he would do or not do otherwise, if he was not deceived.*



(iii) *In cases covered by Section ii(b) the Act of omission should be one which causes or is likely to cause damage or harm to the person induced in body, mind, reputation and property.*

19. In the case of Delhi Race Club (1940) Limited and Others vs. State of Uttar Pradesh and Anr. (2024) 10 SCC 690, the Apex Court considered the ingredients of Section 415 IPC as stated above and held that to constitute an offence under Section 420, *mens rea* i.e. intention to defraud or the dishonest intention must be present from the very beginning or inception.

20. The fundamental principles as narrated above may now be applied to the facts in hand. Admittedly, the Complainant had visited the factory premises of the Petitioner in Ludhiana in June, 2021 and had entered into a Contract for supply of 530 sewing machines and had even paid Rs.3,50,000/- against the proforma invoice of Rs.13,65,280/-.

21. *The core question is whether there was any intention to deceive the Complainant or it was a simple case of breach of Contract.*

22. The Petitioner, Dinesh Dandona has contended that because of the supervening Covid-19 Pandemic conditions, the supply chain got disrupted and he did not have enough finances to fulfill the Contract of the Complainant. It is pertinent to observe that the Contract itself was entered into in June, 2021 when the Covid Pandemic was at its peak. The Petitioner was well aware at that time of the constraints of getting the supply of the material as well as his own financial condition. To claim that this situation arose subsequently, is *prima facie* not borne out from the aforesaid circumstances. It is evident that at the time of entering into the Contract in June, 2021 itself, the Petitioner was well aware that there were difficulties and he would not be able to fulfill this Contract, despite which not only did



he entered into the Contract but also induced the Complainant to pay Rs.3,50,000/-.

23. This fraudulent intention is further evident that even after the Covid-19 Pandemic was over in February, 2022, no endeavour whatsoever was made by the Petitioner to complete his Contract for supply of sewing machines. Though, he has claimed that he had offered to complete the Contract, but there is not even a single letter or document which corroborates his assertion of intending to complete the Contract, though belatedly.

24. Pertinently, in April, 2022 he had returned Rs.50,000/- which again *prima facie* establishes that he had no wherewithal whatsoever since the time he had entered into the Contract in June, 2021 to be able to supply the sewing machines.

25. It is also pertinent to note that O.A. No.428/2023 has been preferred against the Petitioner's Company, which is pending adjudication before the Debt Recovery Tribunal, Chandigarh (DRT-3). It reflects the poor financial status of the petitioner.

26. *Prima facie*, the facts as narrated in the Complaint establish that he had a dishonest intention since the inception of the Contract and had fraudulently induced the Complainant to part with Rs.3,50,000/-.

27. *Prima facie*, the offence under Section 420 IPC is made out and the learned MM rightly allowed the Application under Section 156(3) Cr.P.C for registration of FIR.

28. ***Another legal contention*** raised by the Petitioner is that the Contract was with his Company, M/s Rex Sewing Machines but he has been arrayed as an Accused without the Company being impleaded as a party. The



criminal law does not recognize the principle of *vicarious liability*. It is pertinent to observe that the Complainant has made specific allegations that he had exclusively dealt with the Petitioner in placing the Contract. There are specific allegations made against the Petitioner.

29. It cannot also be over looked that this is only an initiation of investigations by registration of FIR. In case Company M/s Rex Sewing Machine of the Petitioner is found to be a co-accused, it can very well be summoned during the investigations. *This argument as raised by the Petitioner is, therefore, not tenable.*

Conclusion:

30. In view of the aforesaid discussion, it is hereby held that there is no infirmity in the Order of the Ld. M.M dated 18.12.2023 resulting in the registration of FIR No.02/2024.

31. Needless to state that nothing observed herein shall tantamount to an expression on the merits of the case.

32. The present Petition is, therefore, without merit and is hereby dismissed. Pending Applications are disposed of accordingly.

**(NEENA BANSAL KRISHNA)
JUDGE**

NOVEMBER 11, 2025/va