CGHC010323672026 2026:CGHC:38005-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRMP No. 2209 of 2026

1. Avinash Jain S/o Naresh Chand Jain Aged About 54 Years R/o B-38, 3rd Floor Manglapuri, Palam, Delhi- 110045

2. Abhishek Jain S/o Sh. Anil Kumar Jain Aged About 36 Years R/o H.No. H-133, Pocket- 34, Block- H, Sector- 3 Rohini, Rohini Sector- 14, Rohini Sector- 7, North West, Delhi- 110085

3. Manish Bhardiwaj S/o Sh. Niranjan Nath Bhardiwaj Aged About 47 Years R/o R. No. 005, Nurses Hostel, Batra Hospital, Tughlakabad Extn., Dr. Ambedkar Nagar, South Delhi, Pushpa Bhawan, Delhi- 110062

... Petitioner(s)

versus

1. State of Chhattisgarh Through Station House Officer, Police Station Chhawni, District Durg (C.G.)

2. Saket Mohta S/o Jaiprakash Mohta Aged About 39 Years R/o Shri Enterprises, 6/b, Nandini, Chhawni, Durg, District Durg (C.G.)

...Respondent(s)

(Cause-title taken from Case Information System)

For Petitioners	:	Mr. Alok Nigam, Advocate.
For Respondent/State	:	Mr. Sumit Singh, Deputy Advocate General.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

***Per* Ramesh Sinha, Chief Justice**

25.08.2026

1. Heard Mr. Alok Nigam, learned counsel for the petitioners. Also heard Mr. Sumit Singh, learned Deputy Advocate General, appearing for the State/respondent No. 1.

2. The present petition has been filed by the petitioners with the following prayer:

> "*It is, therefore, most humbly and respectfully prayed that this Hon'ble Court may graciously be pleased to allow the instant petition and quash/set aside the entire criminal proceedings arising out from FIR Registration No. 196 of 2017 registered at P.S. Chhawni, District Durg (C.G.) (Annexure P/1) and the Final Report/charge-sheet No. 414 of 2023 filed by P.S. Chhawni, District Durg (Annexure P/2) and the order of framing charges dated 22.01.2026 passed by the learned Judicial Magistrate First Class, District Durg (C.G.) in RCC No. 5161 of 2024 (Annexure P/7), against the petitioners for the offence punishable under Section 420 read with Section 34 of the Indian Penal Code, in the interest of justice.*"

3. Learned counsel appearing for the petitioners submits that the present proceedings arise out of a purely commercial transaction between the complainant, M/s Shree Enterprises, and Arise India Limited, pursuant to an Agency Agreement dated 13.10.2014. The Petitioners were associated with the Company in different capacities, but the transaction in question was entered into between the complainant and the Company. The agreement was executed and notarized at New Delhi and contained specific terms governing the rights and obligations of the parties.

4. It is further submitted by the learned counsel for the petitioners that the Agency Agreement itself contemplated the manner in which damaged or defective goods were to be reported and also contained provisions relating to indemnification and resolution of disputes. In particular, Clause 17 of the agreement provided that disputes arising between the parties would first be attempted to be settled amicably and, failing such settlement, would be subject to Delhi jurisdiction. The nature of the agreement and the terms incorporated therein clearly demonstrate that the underlying dispute is contractual and commercial in character. He further contended that the complainant itself alleges that substantial amounts were paid to the Company towards the business arrangement and that goods were thereafter supplied by the Company. The complainant subsequently returned goods to the Company and sought refund of the purchase amount as well as the security amount. Thus, the dispute essentially concerns the quality and return of goods, refund of money and performance of contractual obligations. Such allegations, by themselves, do not constitute the offence of cheating unless the essential ingredients of Section 420 of the Indian Penal Code are independently established.

5. Learned counsel for the petitioners would submit that the fundamental requirement for an offence of cheating is the existence of fraudulent or dishonest intention at the inception of the transaction. In the present matter, the Agency Agreement was entered into in October 2014 and, according to the complainant's own case, business was carried on thereafter for a considerable period. There is no specific allegation demonstrating that, at the time when the agreement was entered into or when the amounts were received, the Company or the Petitioners had a dishonest intention to deceive or induce the complainant to part with its property. The subsequent inability of the Company to honour the complainant's demand for refund cannot, without more, be converted into a criminal offence of cheating. The material placed on record indicates that the Company subsequently suffered severe financial difficulties, its accounts were declared NPA and liquidation proceedings were initiated. The subsequent financial failure of a company may give rise to civil consequences, but it cannot retrospectively establish dishonest intention at the inception of a commercial transaction.

6. Learned counsel for the petitioners further stated that an amount of Rs.20,00,000/- towards security was admittedly refunded to the complainant prior to registration of the criminal case. This conduct is wholly inconsistent with the allegation that the Petitioners had entered into the transaction with a predetermined dishonest intention to cheat the complainant. The surrounding circumstances, therefore, do not disclose the necessary mens rea for an offence under Section 420 IPC. He also submits that there is, furthermore, no specific allegation showing that any of the petitioners personally induced the complainant to part with money for their own wrongful gain or personally misappropriated the complainant's property. The payments and business transactions were between the complainant and Arise India Limited. Mere designation as a Director or association with the Company cannot, in the absence of specific allegations and supporting material, automatically result in criminal liability for an offence of cheating. The allegation of common intention under Section 34 IPC also cannot be sustained merely by making a general reference to the petitioners. There must be material indicating participation pursuant to a common intention to commit the alleged offence. In the present case, no specific overt act or material has been pointed out to demonstrate that the Petitioners shared a common intention to deceive the complainant at the inception of the transaction.

7. Learned counsel for the petitioners further submits that the subsequent conduct of the complainant itself demonstrates the civil and commercial nature of the dispute. After returning the goods, the complainant pursued its monetary claim against the Company and, following commencement of liquidation proceedings, raised a claim before the Official Liquidator. The claim was considered by the Official Liquidator, subject to production of the requisite original documents. The complainant's pursuit of its monetary claim in the liquidation proceedings is consistent with the existence of a contractual and commercial dispute between the parties. He further submitted that the entire transaction, including the execution and notarization of the Agency Agreement, was undertaken at Delhi. The agreement itself contains a Delhi jurisdiction clause. Although questions of territorial jurisdiction may depend upon the facts constituting the alleged offence, in the present case the prosecution has not identified any specific act of deception committed by the petitioners within the territorial jurisdiction of Police Station Chhawni, District Durg, so as to sustain the criminal prosecution against them.

8. Learned counsel for the petitioners also draws the attention of this Hon'ble Court to the fact that certain petitioners, namely Abhishek Jain, Manish Bharadwaj and Amit Jain, had already left the Company before execution of the Agency Agreement in question. Their implication in the present criminal proceedings, despite the absence of a specific role attributed to them in the transaction, further demonstrates that the criminal liability has been sought to be fastened upon persons merely by virtue of their alleged association with the Company. He further submitted that the petitioners had earlier approached this Hon'ble Court by filing CRMP No. 882/2017 seeking quashing of the FIR. The said petition was disposed of on 01.11.2023 at the stage of investigation with a direction for completion of investigation. The earlier proceedings did not result in any adjudication on the merits of the allegations. Thereafter, the investigation was completed, the final report/charge-sheet was filed, and the learned trial Court proceeded to frame charges. Thus, the present petition is founded upon the subsequent stage of the proceedings and the material now available on record. He also submits that this Hon'ble Court has also granted anticipatory bail to the petitioners vide order dated 09.05.2024 in MCRCA No. 501 of 2024 & batch, wherein the nature of the dispute was noticed as being primarily commercial/civil. Though such an observation by itself may not finally determine the merits of the criminal case, it is a relevant circumstance while considering whether continuation of the prosecution, in the facts presently before the Court, would amount to abuse of the process of law.

9. It is submitted by the learned counsel, appearing for the petitioners that after completion of investigation, the learned Judicial Magistrate First Class, Durg has framed charges under Sections 420/34 IPC. However, even if the prosecution material is taken at its highest, the basic ingredients of cheating are not disclosed against the petitioners. There is no material showing deception at the inception, dishonest inducement, or any specific act of the petitioners pursuant to which the complainant was induced to part with its property. He further stated that the inherent jurisdiction of this Hon'ble Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, ‘BNSS’) is intended to prevent abuse of the process of the Court and to secure the ends of justice. Where the allegations, even if accepted in their entirety, do not disclose the commission of the alleged offence, continuation of the criminal prosecution would serve no legitimate criminal-law purpose. The present case, therefore, is not one where the petitioners seek a detailed appreciation of disputed evidence at the threshold. Rather, the admitted and undisputed circumstances, the contractual nature of the relationship, the absence of allegations showing dishonest intention at inception, the absence of any specific overt act against the Petitioners, the refund of a substantial part of the security amount, and the subsequent liquidation proceedings cumulatively demonstrate that the dispute is essentially commercial in nature.

10. In these circumstances, learned counsel for the petitioners respectfully submits that permitting the criminal proceedings arising out of the FIR, Final Report/Charge-sheet No. 414/2023 and the order dated 22.01.2026 framing charges in R.C.C. No. 5161/2024 to continue against the petitioners would amount to an abuse of the process of law. The petitioners, therefore, pray that this Hon'ble Court may be pleased to exercise its inherent jurisdiction under Section 528 of the BNSS and quash the criminal proceedings against the petitioners in the interest of justice.

11. *Per contra*, learned State counsel has vehemently opposed the petition. It is submitted that the allegations contained in the FIR and the material collected during investigation disclose the commission of a cognizable offence against the petitioners. The Investigating Officer, after conducting a detailed investigation, has collected material and thereafter filed the charge-sheet before the competent Court. The learned trial Court, upon consideration of the material available on record, has already taken cognizance and framed charges under Sections 420/34 of the Indian Penal Code.

12. Learned State counsel further submits that the contentions raised by the petitioners regarding the nature of the transaction, refund of part of the amount, the alleged financial difficulties of the Company, the claim before the Official Liquidator and the respective roles of the petitioners are matters of defence and involve appreciation of factual and documentary evidence. Such disputed questions cannot be conclusively determined in proceedings under Section 528 of the BNSS.

13. It is further contended on behalf of the State that the mere fact that the dispute has a commercial background does not, by itself, exclude the possibility of commission of a criminal offence. Where the allegations and material collected during investigation disclose the ingredients of cheating, the criminal proceedings cannot be terminated merely because the transaction also gives rise to civil or commercial remedies. The question whether the petitioners possessed dishonest intention and whether they participated in the alleged acts is required to be determined on the basis of evidence before the learned trial Court.

14. Learned State counsel also submits that the investigation has already been completed, charge-sheet has been filed and charges have been framed. At this stage, interference by this Court would amount to an appreciation of the prosecution material and the defence of the petitioners, which is impermissible in exercise of the inherent jurisdiction. It is, therefore, prayed that the petition be dismissed and the petitioners be relegated to the remedy available before the learned trial Court.

15. We have heard learned counsel for the parties and perused the material available on record.

16. The legal position on the issue of quashing of criminal proceedings is well-settled that the jurisdiction to quash a complaint, FIR or a charge-sheet should be exercised sparingly and only in exceptional cases and Courts should not ordinarily interfere with the investigations of cognizable offences. However, where the allegations made in the FIR or the complaint even if 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, the FIR or the charge-sheet may be quashed in exercise of powers under Article 226 or inherent powers under Section 482 of the Cr.P.C. (now Section 528 of the BNSS).

17. The Hon'ble Supreme Court in the matters of ***Rupan Deol Bajaj v. K.P.S. Gill*** reported in ***(1995) SCC (Cri) 1059***, ***Rajesh Bajaj v. State of NCT of Delhi*** reported in ***(1999) 3 SCC 259*** and ***Medchl Chemicals & Pharma (P) Ltd. v. Biological E Ltd. & Ors*** reported in ***2000 SCC (Cri) 615***, the Supreme Court clearly held that if a prima facie case is made out disclosing the ingredients of the offence, Court should not quash the complaint. However, it was held that if the allegations do not constitute any offence as alleged and appear to be patently absurd and improbable, Court should not hesitate to quash the complaint. The note of caution was reiterated that while considering such petitions the Courts should be very circumspect, conscious and careful. Thus, there is no controversy about the legal proposition that in case a prima facie case is made out, the FIR or the proceedings in consequence thereof cannot be quashed.

18. In ***Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra, 2021 SCC OnLine SC 315***, the Hon'ble Supreme Court has authoritatively settled the scope of the inherent jurisdiction of the High Court under Section 482 of the Code of Criminal Procedure, 1973 (now Section 528 of the BNSS). The Hon’ble Apex Court has held that the power to quash criminal proceedings is required to be exercised sparingly, with circumspection and only in the rarest of rare cases. It has been categorically observed that while considering a prayer for quashing an FIR or criminal proceedings, the High Court cannot embark upon an enquiry into the reliability, genuineness or otherwise of the allegations contained in the FIR, nor can it appreciate the evidence or conduct a mini trial. The Court is only required to examine whether the allegations, if taken at their face value, disclose the commission of a cognizable offence. The Supreme Court further emphasized that criminal proceedings ought not to be scuttled at the threshold, that investigation into cognizable offences should ordinarily be permitted to proceed unhindered, and that the extraordinary jurisdiction under Section 482 Cr.P.C. must be exercised with great caution and self-restraint, save in exceptional cases where non-interference would result in manifest miscarriage of justice.

19. Very recently, in ***Pradeep Kumar Kesharwani v. State of Uttar Pradesh & Another (Criminal Appeal No. 3831 of 2025, decided on 02.09.2025)***, the Hon'ble Supreme Court reiterated the aforesaid principles and further held that while exercising jurisdiction under Section 482 Cr.P.C. (now Section 528 of the BNSS), the High Court cannot adjudicate disputed questions of fact or evaluate the evidentiary worth of the material collected during investigation. The Court reaffirmed the test laid down in Rajiv Thapar v. Madan Lal Kapoor and observed that criminal proceedings can be quashed at the threshold only when the material relied upon by the accused is of sterling and impeccable quality, completely demolishes the prosecution case, remains incapable of being refuted by the prosecution, and continuation of the criminal proceedings would amount to an abuse of the process of Court. Unless all these parameters are cumulatively satisfied, the High Court ought not to interfere in exercise of its inherent jurisdiction, leaving the parties to establish their respective cases before the trial Court in accordance with law.

20. Having bestowed our anxious consideration to the rival submissions and upon perusal of the material available on record, this Court finds that the FIR contains allegations which require consideration against the petitioners in the context of the material collected during investigation. The Investigating Officer, after conducting the investigation, collected material in support of the prosecution case and, finding sufficient grounds to proceed against the petitioners, submitted the charge-sheet before the competent Court. Thereafter, cognizance was taken and charges have already been framed by the learned trial Court.

21. The principal submission of the petitioners is that the dispute is purely commercial in nature, that there was no dishonest intention at the inception of the transaction, that part of the security amount was refunded and that the Company subsequently underwent financial difficulties and liquidation proceedings. The petitioners have also relied upon the contractual terms, the jurisdiction clause contained in the Agency Agreement and the claim raised before the Official Liquidator. However, whether these circumstances completely negate the allegations of cheating, whether the petitioners had the requisite dishonest intention, and what role, if any, was played by each of the petitioners are matters which require appreciation of the material collected during investigation and the evidence to be led before the learned trial Court.

22. At this stage, this Court cannot enter into an appreciation of the evidentiary value of the defence material relied upon by the petitioners or record any conclusive finding regarding the correctness of their explanation. The contention that the dispute is purely civil or commercial in nature cannot, in the facts of the present case, be conclusively accepted so as to terminate the criminal proceedings at the threshold. The existence of a contractual or commercial relationship does not by itself bar criminal prosecution where the allegations and the material collected during investigation disclose the ingredients of a criminal offence.

23. The contention regarding territorial jurisdiction also does not, at this stage, furnish a ground for quashing the entire criminal proceedings. The question whether any part of the alleged offence was committed within the jurisdiction of the concerned police station would depend upon the allegations and evidence available on record and cannot be conclusively determined in the present proceedings merely on the basis of the jurisdiction clause contained in the agreement.

24. So far as the contention regarding the petitioners Abhishek Jain, Manish Bharadwaj and Amit Jain having allegedly left the Company before execution of the Agency Agreement is concerned, the same is also a matter which would require examination of the relevant documentary and other evidence. At the stage of exercising inherent jurisdiction, this Court cannot undertake a detailed examination of such disputed factual aspects or substitute its assessment for that of the learned trial Court.

25. It is also significant that the investigation has already culminated in filing of the charge-sheet, cognizance has been taken and charges have been framed. At this stage, the petitioners have an adequate opportunity to raise all their factual and legal defences before the learned trial Court and to demonstrate, on the basis of the evidence brought on record, that the essential ingredients of the alleged offence are not established against them.

26. Applying the principles laid down by the Hon'ble Supreme Court in

Neeharika (supra) and ***Pradeep Kumar Kesharwani*** (supra), this Court is of the considered opinion that the present case does not fall within the exceptional category warranting interference under Section 528 of the BNSS. The material relied upon by the petitioners cannot, at this stage, be held to be of such sterling and impeccable quality as would completely demolish the prosecution case. The defence sought to be raised by the petitioners cannot be accepted at this stage so as to terminate the criminal proceedings at the threshold. It is made clear that this Court has not expressed any opinion on the ultimate merits of the allegations against the petitioners. The observations made herein are confined to the question as to whether the extraordinary jurisdiction under Section 528 of the BNSS ought to be exercised at this stage. The petitioners shall be at liberty to raise all such grounds and defences before the learned Trial Court, which shall consider the same in accordance with law and on the basis of the evidence brought on record, without being influenced by any observation made in the present order.

27. In view of the aforesaid discussion, this Court is of the considered opinion that no case for exercise of the inherent jurisdiction under Section 528 of the BNSS is made out. The investigation has culminated in filing of the charge-sheet and charges have already been framed against the petitioners. At this stage, this Court finds no justification to interdict the criminal proceedings in exercise of its inherent jurisdiction.

28. Accordingly, the present petition, being devoid of merit, is hereby

dismissed.

29. Since the criminal case is pending before the learned trial Court and charges have already been framed, the learned trial Court is directed to proceed with the trial expeditiously and make every endeavour to conclude the same at the earliest, in accordance with law. However, the learned trial Court shall ensure that adequate opportunity is afforded to the parties to conduct the trial fairly and that the trial is not prejudiced by any observation made in the present order.

30. It is, however, clarified that the observations made herein are only for the purpose of deciding the present petition and shall not influence the learned trial Court while deciding R.C.C. No. 5161 of 2024 on its own merits and in accordance with law.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Brijmohan