

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. No. 2314 of 2024

Maruti Suzuki India Limited & Anr.

Versus

Vijaynath Jha

For the Petitioners : Mr. Sabyasachi Banerjee, Ld. Sr. Adv.
Mr. Avishek Das, Adv.
Mr. Soubhik Dey, Adv.

For the Opposite Party : Mr. Mrityunjoy Chatterjee, Adv.
Ms. Suchismita Chakraborty, Adv.
Mr. Arka Roy, Adv.
Mr. Debarnab Adhikary, Adv.

Heard on : 31.07.2026

Judgment on : 02.09.2026

Uploaded on : 02.09.2026

Ajay Kumar Gupta, J.:-

1. This instant Criminal Revisional application has been filed under
Section 482 of the Code of Criminal Procedure, 1973 (in short,

‘Cr.P.C.’) by the petitioners seeking quashing of the proceedings being C.S. No. 37758 of 2024 (Mr. Vijaynath Jha Vs. Maruti Suzuki India Limited & Ors.) under Sections 120B/418/420 of the Indian Penal Code, 1860 pending before the Court of the Learned Metropolitan Magistrate, 19th Court at Calcutta and all orders passed therein.

2. The background facts, which led to filing of this Criminal Revisional application, may be adumbrated as under:

a. The allegations and/or averments made in the petition of complaint filed before the Learned Chief Metropolitan Magistrate are that the opposite party had purchased a car being "Maruti Suzuki Celerio ZXI MT" from a dealer, namely, Dewars Garage Limited, Kolkata. After taking delivery of the said car, he noticed that the power steering did not automatically return to the central position after turning. However, at the time of purchase, it was shown to have a power steering with an auto-rotate system.

b. After using the car for nearly three months, the opposite party raised the purported steering issue during the first service when the dealer's service centre dismissed the opposite party's concern, attributing the non-returnability of the steering to new technology and labelling it as the new normal. Allegedly, no cogent action was taken by the petitioners or by the dealership, although the opposite party had repeatedly raised concerns with the dealership officials.

- c.** An inspection was caused upon receipt of the complaint, after which the Regional Service Manager of the petitioners replied via an email that the vehicle of the opposite party was as per specification, but the return assist feature in the power steering was not available in the said model of the car. It is essentially upon these facts that the opposite party felt that the car suffered an inherent manufacturing defect, and that he has been defrauded and deceived by the petitioners and the dealer, through their misleading advertisement, that the car has a power steering function, leading to suppression of material facts, for which the opposite party has instituted the complaint case against the petitioners.
- d.** The petitioners are aggrieved that the Learned Magistrate took cognizance against them and further issued summons, *inter alia*, upon them, without applying judicious mind and without considering that no ingredient of the offence as alleged at all had been made out against the petitioners in the complaint filed by the opposite party. Hence, this Criminal Revisional application.
- 3.** Learned Sr. counsel, Mr. Banerjee, along with other counsels, appearing on behalf of the petitioners submitted that the case filed by the opposite party is absolutely false, fabricated, and concocted with malicious intention. He purchased the car on 11th August, 2022.

After receiving delivery on 29th September, 2022, the Opposite Party drove the car for 3 months and for more than 5000 Kms, after which he noticed that the power steering did not automatically return to its central position, which was absurd since such a system is not available in the said car.

4. It was further submitted that upon receiving the complaint during the first servicing, the dealer's service centre considered the contention of the opposite party and indicated that the steering available in the Car is normal and functional without any disturbance. An inspection was conducted again and subsequently, the Regional Service Manager of the petitioner no. 1/Company replied via an email dated 09.09.2023 indicating that the vehicle purchased by the opposite party was as per specification. The return assist feature in the power steering was not available in the said model 'Celerio ZXi MT'.
5. The car was normally available for three free services, and during such service on three occasions, i.e., on 28.10.2022, 20.12.2022 and 05.09.2023, no abnormality was noticed. The Regional Service Manager of the petitioner No. 1 assured and entrusted the opposite party to drive the vehicle with confidence as no problem was found in the steering of the car. In reply, the opposite party, vide email dated 09.09.2023 at 07.09 PM, acknowledged the email of the Regional Service Manager and declared that he is satisfied with the

explanation and further endorsed the vehicle as overall, a “very good and smooth drive car”.

- 6.** It was further contended that despite satisfaction, the opposite party filed a complaint before the learned Chief Metropolitan Magistrate, Calcutta, who took cognizance of the said complaint without applying his judicious mind and transferred the case before the Learned 19th Metropolitan Magistrate, Calcutta for enquiry and disposal. In turn, summons was issued against the petitioners.
- 7.** It was further contended that even if there was a manufacturing defect, the case could be at best civil in nature and should not have been painted in a criminal colour. The opposite party has already filed a consumer case bearing No. CC/53/2024 in the District Consumer Disputes Redressal Commission, Kolkata-1 (North). However, the opposite party has further tried to cloak a civil dispute in criminality and used it as a pressure tactic or harassment tool to force the petitioners, for his illegal gain, by way of compensation.
- 8.** It was further submitted that Petitioner No. 1, the company, having its registered office at New Delhi, and Petitioner No. 2, the CEO of the company, have no role to play in the dealing or selling the car to the opposite party, as the car was purchased from the dealer, namely, Dewars Garage Limited at Kolkata.

- 9.** The petitioners have an exquisite reputation for delivering quality cars in the international market for decades, and they have always followed all the Government-set standards strictly while manufacturing any vehicle. The quality of goods or services is directly proportional to their price. The whole case is based on the allegation that the auto-returnability feature was not available in the power steering of the de facto complainant's car. It was clearly explained to him on several occasions that power steering is available in two distinct variants, one with the auto-returnability feature and one without it, and that the vehicle purchased by the opposite party had power steering without the auto-returnability feature.
- 10.** The opposite party misinterpreted the fact that power steering includes an auto-returnability feature, although power steering has two different and independent features. After driving the car for about 5000 Kms, the officials and technicians personally, and also via email, explained to the opposite party about the two types of power steering and, in reply, he admitted everything after being satisfied. As the Opposite Party purchased the car based on the description which matches the brochure, the petitioners cannot be held liable. The allegation of the opposite party is confined to the defect in the power steering of the car delivered to him, i.e., it lacked the auto-returnability feature. Even if, for the sake of argument, it is assumed

that the opposite party's case is the supply of a defective car/goods, the remedy lies under the civil side and, at best, relief is available under the Consumer Protection Act, 2019. The opposite party has filed another case as aforesaid before the Consumer Forum. Therefore, this present case is baseless and filed only for illegal gain and to malign the reputation of the petitioners; therefore, if such proceeding is allowed to be continued against the present petitioners, without their involvement, it would be an absolute abuse of process of law and the same is liable to be quashed.

- 11.** Finally, it was submitted that the learned Magistrate did not follow the Mandatory enquiry under Section 202(1) of the Cr.P.C. before issuing summons to the petitioners as both the petitioners' office and residential address fall outside the jurisdiction of the learned Court; as such, only non-compliance of the mandatory provision would be the additional ground for quashing of the instant proceeding.
- 12.** Learned senior counsel appearing on behalf of the petitioners has relied upon the following decisions to support his contention that the allegation against the petitioners is out and out false and no specific role is attributed against the petitioners for commission of offence as alleged. The whole case is based on consumer disputes, allegedly physical flaws, poor quality, or that it does not work as promised.

Therefore, the case may be quashed on the basis of observations made by the Hon'ble Courts in view of the following judgments: -

- i) *Sunil Bharti Mittal Vs. Central Bureau Of Investigation*¹;**
- ii) *Anil Mahajan Vs. Bhor Industries Ltd. And Another*²;**
- iii) *Dr Sharma's Nursing Home Vs. Delhi Admn. And Others*³;**
- iv) *Gaurav Bajaj Vs. State Of West Bengal And Anr.*⁴;**
- v) *Maharashtra State Electricity Distribution Company Limited And Anr. Vs. Datar Switchgear Limited And Others*⁵;**
- vi) *The Ceo, Maruti Suzuki India Ltd. & Anr. Vs. Ajay Mallick & Ors.*⁶;**
- vii) *Maksud Saiyed Vs. State Of Gujarat & Ors.*⁷;**
- viii) *Ford India Limited & Anr. Vs. Sunbeam Ancillary Private Limited*⁸.**

13. Learned counsel appearing on behalf of the opposite party, on the other hand, strenuously opposed the prayer of the petitioners and further submitted that the accused No. 5, being the representative of the accused No. 3, dealer, i.e., Dewars Garage Limited, gave a long,

¹ (2015) 4 SCC 609;

² (2005) 10 SCC 228;

³ (1998) 8 SCC 745;

⁴ 2025 SCC ONLINE CAL 1786;

⁵ (2010) 10 SCC 479;

⁶ CRR NO. 520 OF 2017 ORDER DATED 20.02.2019;

⁷ (2008) 5 SCC 668;

⁸ 2008 SCC Online Del 764.

rosy presentation on the features of the car and influenced him from the beginning to buy the said car.

- 14.** It was further submitted that the representative of the accused dealer has, throughout the presentation, impressed the opposite party that the car has good features and maintained that the car has power steering but never disclosed that the steering was without auto return feature, which is common and most of the cars available have such features.
- 15.** Learned Counsel further submitted that the accused Manufacturer/Maruti Suzuki India Limited has also not disclosed the two types of power steering available in the cars manufactured by the company through its advertisements, promotional catalogues, brochure and pamphlets; therefore, the accused company, its officials, representative and dealer are liable for commission of offence punishable under sections 120B/418/420 of the Indian Penal Code.
- 16.** It was further argued that such suppression of facts about the feature of the car or steering tantamount to cheating to the purchasers, therefore, this revisional application is not maintainable and is liable to be dismissed as it requires full-fledged trial to unearth the truth for the ends of justice; otherwise the opposite party as well as other purchasers would be prejudiced by such suppression and/or

continuous deprivation by misrepresentation, suppression and deceiving other purchasers in future.

- 17.** Having heard the arguments and submissions of the learned counsels appearing on behalf of the respective parties and on perusal of the entire records, this Court finds that on the basis of examination under Section 200 of Cr.P.C., cognizance was taken by the Learned Court below against the present petitioners under Sections 418/420/120B of the IPC and the case was transferred to the file of the Learned Metropolitan Magistrate, 19th Court at Calcutta for enquiry and disposal.
- 18.** Thereafter, the Learned Magistrate examined the witnesses on solemn affirmation and on perusal of the complaint and statements, it was found that a *prima facie* case was established under Sections 418/420/120B of the IPC against the accused persons including the present petitioners.
- 19.** From perusal of the petition of complaint, it is found that the opposite party had purchased a car being “CELERIO ZXI MT” (in short, ‘the said Car’) on 28.09.2022 at a consideration amount of Rs. 6,17,469/- including base price, insurance, Road tax, Registration fee etc.
- 20.** The opposite party had admittedly purchased the car without a test drive. A test drive is ordinarily intended to allow a prospective

purchaser to understand the handling and functional characteristics of the vehicle, including its steering behaviour, before committing to the purchase.

- 21.** After taking delivery and upon driving the said car, the complainant/opposite party noticed a serious defect in the Electronic Power Steering (EPS) system. Normally, an EPS system automatically returns the steering wheel to centre after a turn, easing the driver's effort. In this car, however, the wheel did not return to the centre on its own and had to be corrected manually each time, requiring extra caution and creating a real risk of losing control and colliding with another vehicle or a wall. Having forgone that opportunity of a test drive, the opposite party is not in a good position to contend that the steering characteristics of the vehicle, which he noticed only after using it for nearly three months and over 5,000 kms, were allegedly fraudulently concealed from him at the threshold.
- 22.** The complainant had repeatedly raised concerns vide telephonic conference, email and finally legal notice, but his issue has not been resolved. Eventually, he had to take recourse by filing a complaint case against the accused persons.
- 23.** The complaint clearly reveals that the opposite party initially raised the complaint with regard to the power steering of the car after nearly three months of using the car and driving it almost 5,000 kms,

during the first service on 28.10.2022. The supervisors and managers at the service centre dismissed it as "new technology" and the "new normal." Having driven a Zen Estilo since 2008 and an SUV regularly, the Complainant found this explanation unacceptable. Despite attempting to adjust, the stiff, unresponsive steering remained hazardous, especially on flyovers and sharp turns.

- 24.** The principal question which falls for consideration before this Court is whether the allegations made in the petition of complaint, taken at their face value and accepted in their entirety, disclose the commission of any offence punishable under Sections 120B, 418 and 420 of the Indian Penal Code to justify continuation of the criminal proceedings against the petitioners?
- 25.** Upon careful reading of the complaint, it is revealed that the entire grievance of the opposite party revolves around the functioning of the power steering of the vehicle purchased by him. Admittedly, the opposite party took delivery of the vehicle, used it for nearly three months and drove the same for more than 5,000 kms before raising any grievance regarding the steering mechanism. The complaint itself records that the issue was raised only at the time of the first scheduled service.
- 26.** Significantly, upon receipt of the complaint, the dealer as well as the manufacturer did not ignore the grievance of the opposite party.

Rather, the vehicle was inspected by the authorised service personnel and, thereafter, the Regional Service Manager informed the opposite party through email that the vehicle was functioning in accordance with its specifications and that the "return assist" feature in the steering mechanism was not available in the particular model purchased by the opposite party. Thus, the allegations in the complaint themselves demonstrate that the complaint was duly considered, the vehicle was examined and a technical explanation was furnished by the manufacturer.

- 27.** Upon perusal of the brochure relied upon by the complainant, this Court finds that the manufacturer has merely described the vehicle as being equipped with "Electric Power Steering". There is no representation, express or implied, that the steering wheel would automatically return to its central position after negotiating a turn or that the vehicle possesses any particular degree of steering returnability. Equally, there is no material indicating that any such characteristic was deliberately concealed from prospective purchasers. The promotional statements contained in the brochure are in the nature of general advertising expressions concerning the vehicle's styling, comfort, safety and driving experience, and cannot reasonably be construed as representations relating to the specific steering behaviour complained of by the opposite party.

Consequently, the allegation that the petitioners induced the complainant to purchase the vehicle by misleading advertisement or suppression of material facts does not find *prima facie* support from the brochure itself.

- 28.** It is trite law that the offence of cheating under Section 420 IPC requires the existence of dishonest or fraudulent intention at the very inception of the transaction. Mere failure of a product to satisfy the expectation of a purchaser or a subsequent dispute regarding the quality or performance of goods does not *ipso facto* constitute the offence of cheating unless the requisite *mens rea* is established from the inception.
- 29.** In the present case, the complaint does not disclose any circumstance from which an inference can reasonably be drawn that the petitioners possessed any fraudulent or dishonest intention at the time the vehicle was sold. The petitioners in no way promised that the vehicle possessed a “return assist” feature in its steering mechanism. In the absence of such foundational allegations, the essential ingredients of Sections 415 and 420 IPC remain wholly unfulfilled.
- 30.** Likewise, the allegations also fail to attract Section 418 IPC. To constitute an offence under Section 418 IPC, there must be cheating accompanied by the existence of a legal or contractual obligation to protect the interest of the complainant and a deliberate intention to

cause wrongful loss by breach of such obligation. The complaint contains no averment indicating any deliberate breach of such obligation with dishonest intention. On the contrary, the materials disclose that upon receipt of the grievance, the authorised representatives examined the vehicle and communicated their technical findings to the complainant.

- 31.** Equally unsustainable is the allegation under Section 120B IPC. The complaint merely arrays the manufacturer and its officials along with the dealer as accused persons. Beyond making omnibus allegations, there is no material indicating any agreement or meeting of minds amongst the accused persons to commit any illegal act. It is well settled that the offence of criminal conspiracy cannot be inferred merely because more than one person is impleaded as an accused. The complaint must disclose specific facts from which the existence of an agreement to commit an offence can reasonably be inferred. No such averments are forthcoming in the present case.
- 32.** This Court also cannot overlook that the dispute, as pleaded by the opposite party, is essentially one concerning the quality, features and performance of a consumer product. Whether the steering characteristics complained of amount to a manufacturing defect, whether the model lacked a particular feature, or whether the advertisements created any misunderstanding are matters which

ordinarily fall within the realm of consumer jurisprudence and contractual obligations. The Consumer Protection Act provides an efficacious statutory mechanism for adjudication of disputes relating to alleged manufacturing defects, deficiency in service and unfair trade practices.

- 33.** The opposite party has already addressed his grievances by filing Consumer Case No. CC/53/2024 filed in District Consumer Disputes Redressal Commission, Kolkata-1 (North) against the Petitioner no. 1 and the dealer.
- 34.** Criminal law cannot be permitted to be employed as a substitute for civil or consumer remedies merely because the purchaser is dissatisfied with the performance or features of a product. The distinction between a civil wrong and a criminal offence cannot be obliterated by employing expressions such as "fraud" or "deception" in the complaint without disclosing the factual ingredients necessary to constitute the alleged offences.
- 35.** The chronology of events also assumes significance. The opposite party continued to use the vehicle extensively for over three months and more than 5,000 kilometres before lodging his grievance. Upon being informed by the authorised representatives that the steering behaviour complained of was normal for the concerned model and that the return assist feature was not available in the said vehicle,

the opposite party chose to initiate criminal prosecution. Even if such explanation is ultimately found unacceptable by the complainant, the same cannot, by itself, transform a consumer grievance into a criminal offence.

- 36.** This Court also cannot lose sight of the fact that the complaint has arraigned the CEO/Managing Director of the petitioner no. 1/company without attributing any overt act or specific role to him. There is no allegation that the said official participated in the sale transaction, interacted with the complainant, made any representation, or had any personal involvement in the alleged acts complained of. The mere fact that a person occupies a high managerial position in a company cannot render him vicariously liable for alleged criminal acts of the company in the absence of a statutory provision creating such liability or specific allegations demonstrating his active participation in the commission of the offence. Criminal law does not recognise vicarious liability unless expressly provided by statute.
- 37.** The allegations contained in the complaint, therefore, even if accepted in their entirety, disclose at best a dispute relating to the features or performance of the vehicle. They do not disclose the essential ingredients of dishonest inducement, fraudulent intention from the inception, criminal conspiracy or intentional deception as

contemplated under Sections 418, 420 and 120B of the Indian Penal Code.

38. In ***Pepsi Foods v. Special Judicial Magistrate (Supra)***, the Hon'ble Supreme Court observed:

“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. 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.”

39. Judgment relied upon by the learned senior counsel appearing on behalf of the Petitioners in the case of ***Ford India Ltd. & Anr. Vs. Sunbeam Ancillary P. Ltd. (Supra)*** is squarely applicable in the present facts and circumstances of this case. In the said case, particularly at paragraph 12, the Hon'ble Court held as under: -

“12. The criminal complaint ‘therefore’ prima facie indicates that this was a case of supply of defective goods, the remedy

for which lay under the Consumer Protection Act, 1986 ('CPA'). This Court was informed during the course of arguments that such a complaint under the CPA is pending adjudication. The essential ingredients of cheating as defined under Section 415, IPC and made punishable under Sections 417 and 420, IPC cannot be said to have been made out in the instant case. This Court is satisfied that "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". The test laid down by the Supreme Court in Bhajan Lal can be said to be satisfied in the present case. The Court is also satisfied that given the nature of the averments made in the complaint, it would not serve any purpose to make the accused go through the ordeal of a criminal trial which would be time consuming and not in the interests of justice. As explained in Uma Shankar Gopalika v. State of Bihar, (2005) 10 SCC 336, a criminal complaint in a matter of this nature is an abuse of the process of law. The decisions in Hotline Teletubes and Components v. State of Bihar, (2005) 10 SCC 261, and Anil Mahajan v. Bhor Industries Ltd., (2005) 10 SCC 228 are also relevant in this context."

- 40.** In the above backdrop as well as perusal of the other decisions relied upon by the petitioners in the present case, this court is of the considered opinion that continuation of the criminal proceedings in the facts of the present case would amount to permitting the criminal process to be used for resolution of what is essentially a consumer dispute. Such continuation would constitute an abuse of the process of the Court and would unnecessarily subject the petitioners to

criminal prosecution despite the absence of the foundational ingredients of the offences alleged.

- 41.** In addition, the learned trial court also did not consider that the present petitioners' official and residential address is outside the territorial jurisdiction of the learned trial court before issuance of summons against them. The learned trial court should have followed the mandatory provision under section 202(1) of the Cr.P.C. before taking cognizance and issuing summons. In other words, it is a good ground for quashing the proceedings against the petitioners in addition to the aforesaid discussion.
- 42.** Accordingly, **CRR No. 2314 of 2024** is **allowed**. Connected applications, if any, are also, thus, disposed of.
- 43.** As a result, the criminal proceedings being C.S. No. 37758 of 2024 (Mr. Vijaynath Jha Vs. Maruti Suzuki India Limited & Ors.) under Sections 120B/418/420 of the Indian Penal Code, 1860 pending before the Court of the Learned Metropolitan Magistrate, 19th Court at Calcutta is quashed and all Orders thereof are hereby set aside insofar as the petitioners are concerned.
- 44.** Let a copy of this Judgment be sent to the Learned Trial Court for information.
- 45.** Interim order, if any, stands vacated.

- 46.** Urgent photostat certified copy of this Judgment, if applied for, is to be given as expeditiously to the parties on compliance of all legal formalities.

(Ajay Kumar Gupta, J.)

P. Adak (P.A.)