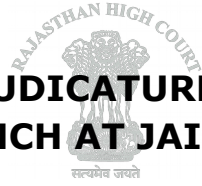




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Criminal Miscellaneous Petition No. 4109/2023

Simara Foods Pvt. Ltd, Through Its Director Praveen Satpal Jain
S/o Shri Satpal Jain, Aged About 73 Years, Address - B-1/7,
Narayan Poojari Nagar, A.g. Khan Road, Worli, Mumbai-400018.

-----Petitioner

Versus

1. State of Rajasthan, Through PP
2. M/s MS Agri Proprietorship Firm, Mediator Pritesh Maheshwari S/o Late Shri Shyam Maheshwari, Address - B-106, Shrikantpearl, Kalidas Marg, Banipark, Jaipur (West), Rajasthan.

-----Respondents

For Petitioner(s) : Mr. Kapil Gupta with
Mr. Ajay Gadhwal
Mr. R.S. Sinsinwar
Mr. Chitransh Saxena
Mr. Vipul Ojha
Ms. Anisha Yadav
Ms. Nidhi Sharma
Mr. Dharmendra Bairwa
Mr. Adarsh Singhal

For Respondent(s) : Mr. Mahendra Meena, PP
Mr. Hemant Nahta with
Mr. Naresh Sharma, for complainant.

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

J U D G M E N T

DATE OF PRONOUNCEMENT :- 10/05/2024

(Reportable)

1. This misc. petition under Section 482 Cr.P.C. has been preferred on behalf of the accused petitioner seeking quashing of the FIR No.239/2022 registered at Police Station Banipark, Jaipur (West) for offences under Sections 409, 420, 468, 471 and 120B IPC.



2. Brief facts in a nutshell are that the complainant-respondent No.2, submitted a complaint under Section 156 (3) Cr.P.C. before the Metropolitan Magistrate No.7, Jaipur Metro-II alleging *inter alia* that the petitioner induced him into delivering material against advanced payment by raising proforma invoices. It is alleged in the complaint that he paid advance amount but neither the petitioner supplied the material nor returned the advance amount to him. The complainant also alleged in the complaint that the petitioner made fraudulent entries in the books of accounts and usurped his money. The learned trial court sent the matter to the Police Station Banipark Jaipur for investigation whereupon the impugned FIR No.239/2022 came to be registered against the accused petitioner for offences under Sections 409, 420, 468, 471 and 120B IPC.

3. Learned counsel for the accused petitioner contends that the impugned FIR is based upon false and fabricated facts. He submits that both petitioner and the complainant are involved in the business of pulses and chickpea etc. The complainant was operating his business with the petitioner through Vardhman Mehta, proprietor M/s Vardhman Commercial, Mumbai and M/s Prakash Agro Commodity. He submits that the complainant while concealing the details of sales, purchase, receipt and payments made during period form 2018 to 2021, has lodged this FIR. During the aforesaid period, the complainant has carried out business of crores of rupees but surprisingly, it has been alleged in the FIR that the petitioner has not made payments of the transactions which took place in the year 2017 that too in the year



2022, after an inordinate delay of more than five years. As a matter of fact, the complainant hatched a conspiracy with Mr. Vardhman Mehta and made forged entries in the books of accounts and during audit, when this fact came into the knowledge of the petitioner, he filed a complaint before Economic Offence Wing ('EOW') Mumbai and in counter, the complainant had lodged this FIR. It is also contended that same complaint had been filed by Mr. Vardhman Mehta before Economic Offence Wing, Mumbai in which, after preliminary enquiry, the EOW has filed the complaint of Mr.Vardhman by opining it to be a "Civil Nature" dispute. In support of this contention, he draws attention of this Court towards copy of communication dated 05.09.2023 sent by Sr. Inspector of Police, Economic Offences Wing Unity-VI (GC-4), Mumbai to Mr. Vardhman Mehta.

4 Learned counsel thus, contends that the impugned FIR is nothing but a sheer abuse of process of law and it has been lodged in counterblast of the action taken by the petitioner against the complainant before EOW, just to harass and humiliate the petitioner. Learned counsel further submits that after lodging of the impugned FIR, the petitioner company received notice from the Police Station Banipark, Jaipur and the petitioner gave detailed and specific reply to each and every allegations mentioned in the said notice. Alternatively, he contends that even for the sake of argument, if the story narrated by the complainant in the FIR is accepted to be true, then also, no offence is made out against the petitioner and it would be a civil nature dispute, arising out of business transactions. Learned counsel contends that the



allegations levelled in the FIR at best may be breach of contract for which, initiation of criminal proceedings by way of impugned FIR would amount to abuse of process of law. He has placed reliance on the following judgments:-

- (i). Sachin Garg v. State of U.P. and Anr. reported in 2024 (2) Supreme 73
- (ii). Paramjeet Batra v. State of Uttarakhand, reported in (2013) 11 SCC 673
- (iii). Mohd. Ibrahim & Ors. v. State of Bihar & Anr. reported in (2009) 8 SCC 751
- (iv). In Dalip Kaur & Ors. Vs. Jagnar Singh & Anr. reported in (2009) 14 SCC 696

5. Per contra, learned Public Prosecutor as well as learned counsel for the respondent complainant have vehemently and fervently opposed the submissions advanced by the petitioner's counsel. He submits that the accused petitioner fraudulently misappropriated the funds of the complainant and thereby usurped the money of the complainant. Learned counsel for the complainant submits that despite several reminders to the petitioner, he has neither delivered the goods nor returned the advance payment and thereafter, ultimately, the FIR has to be lodged by the complainant. Learned counsel contends that the petitioner had no intention to pay from the very beginning and it has grabbed the due payments of the complainant and in order to give it a colour of civil dispute, the petitioner fabricated the accounts and made false entries. As regards the contention of the petitioner's counsel that at best the dispute is a civil dispute and



hence, the criminal proceedings are not maintainable, learned counsel for the complainant submits that even in such type of civil nature disputes, when there is allegation of breach of contract, if there is any element of breach of trust with *mens rea*, it gives rise to criminal prosecution as well and merely on the ground that there was civil dispute, criminality involved in the matter cannot be ignored. It is also contended that one FIR with similar and identical allegations was also registered against the petitioner in the State of MP and the petitioner filed a misc. petition before Madhya Pradesh High Court wherein no relief was granted to him.

6. He submits that Hon'ble Supreme Court has repeatedly cautioned that the inherent powers under Section 482 should be exercised sparingly and with circumspection and that too in the rarest of rare cases. Lastly, learned counsel submits that if this misc. petition is accepted and the proceedings of the impugned FIR are quashed, then, such a course would result in miscarriage of justice and would encourage the accused in repeating the crimes. He has placed reliance on the following judgments:-

- (i). Google India Private Ltd. v. Visakha Industries & Ors. reported in AIR 2020 SC 350;
- (ii). Lakshman v. State of Karnataka & Ors. reported in 2019 (9) SCC 677
- (iii). Rajesh Bjaj v. State of Delhi : reported in (1999) 3 SCC 259
- (iv). Sanapareday Maheedhar Seshagiri v. State of Andra Pradesh reported in (2007) 13 SCC 165



7. I have heard and considered the submissions advanced at bar and have gone through the material available on record.

8. From perusal of the Impugned FIR one fact is well established that the petitioner and the complainant have enjoyed a mutually beneficial business relationship for a significant period of time. Their association has been characterized by trust, cooperation, and a shared interest in maintaining a successful business venture. Perusal of the record clearly indicates that several business transactions took place in between the petitioner and the complainant from 2017 to 2022. The complainant in this FIR alleged that on 29.09.2017, he made advance payment of Rs.23,29,000/-, 25,00,000/- (total Rs.48,29,000/-) in favour of the petitioner, but neither the goods were supplied to him nor margin money was paid to him as the accused petitioner, with intention to cheat him, made forged invoices as the petitioner was not having any stock with him.

9. In my considered opinion, when the complainant has already experienced such a mischievous incident of cheating and fraud, said to be played by the petitioner with him, then as to why, he kept on continuing his business transactions for the next five-six years.

10. The existence of such long-standing business relations raises questions regarding the credibility and motivation behind the complainant's decision to initiate criminal proceedings against the petitioner. Throughout their business relationship, there have been



no prior complaints or legal actions brought forth by either party against the other. This absence of any previous legal disputes further underscores the harmonious nature of their business association, casting doubt on the sudden emergence of criminal allegations. In cases involving long-standing business relations, it is not uncommon for one party to leverage the criminal justice system to gain an unfair advantage or to settle personal scores. In this particular case, it is evident from the balance sheet of the complainant's firm that before registration of the FIR, numbers of orders to supply the goods were placed by both the parties to each other, which is evident from the material available on record.

11. In such situations where business disputes arise, the Indian judiciary provides a robust framework for resolving conflicts through civil litigation. The complainant has the option to seek civil remedies such as damages, injunctions, or specific performance or to file suit to recover the dues, which are better suited to address commercial disputes rather than resorting to criminal prosecution. It is also to be noted here that parties were doing business through mediator and in respect of business disputes between the petitioner, complainant and mediator one criminal complaint was submitted before the EOW and same was thoroughly examined and finally it was found that essentially there is civil dispute between the parties. The same is reproduced hereinbelow for the sake of ready-reference:-

"To

Mr. Vardhman Mehta
E/601, Kamdhenu Sai Sakshat
Sector-6, Kharghar,
Navi Mumbai -410210





Subject :- Your Complaint applications submitted against M/s Simara Foods Pvt. Ltd. and it's Director and owner.

Reference:-Economic Offence Wing, Mumbai, Preliminary Enquiry No.87/2022

On the basis your applications submitted to E.OW., Mumbai against M/s Simara Foods Pvt. Ltd. and it's Director and owners, this office conducted Preliminary Enquiry vide No.87/22.

During the course of enquiry of said P.E. No.87/22 by this office, it is revealed that the claim and complaint filed by your office against M/s Simara Foods Pvt. Ltd. and it's Director and owners are "Civil Nature"

Hence said P.E. No.87/22 is filed as "Civil Nature" by this office.

(XXX)

Economic Offences Wing
Unit-VI (GC), Mumbai"

12. Mere fact that one FIR with similar and identical allegations was also registered against the petitioner in the State of MP, wherein no relief was granted to the petitioner by the Hon'ble High Court of MP, cannot be a ground to throw this petition at threshold.

13. A careful reading of the complaint, the gist of which this court has extracted above would show that none of the ingredients of any of the offences complained against the petitioner are made out. Even if all the averments contained in the FIR are taken to be true, they do not make out any of the offences alleged against the petitioner. Therefore, I am unable to understand how an FIR was registered and offences have been found proved. When FIR itself



disclosed nothing more than a commercial relationship which broke, it is not possible for respondent No.2 to enlarge the scope of his complaint by merely adding the language used in the text of the Indian Penal Code.

14. After careful consideration of the arguments and material available on record, this court is of the opinion that the criminal prosecution should not be allowed when there is a long-standing business relationship between the parties without any complaint during last five years. It appears from the FIR that dispute between the parties is with regard to the rendition of accounts as it is reflected from the own balance sheet of the complainant that number of transactions were made between the parties in last five years. This fact is evident from the email (Annexure-R-2/1) sent by the respondent complainant himself to the petitioner. The summary of transactions took place between the parties are reproduced hereinbelow for the sake of ready-reference:-

SUMMARY OF TRANSACTIONS BETWEEN MS AGRI AND SIMARA FOODS PVT LTD (FORMERLY KNOWN AS FERTINVEST INDIA PVT LTD) DURING PERIOD: 1-JAN-2017 - 15-DEC-2021

TRANSACTION TYPE	DESCRIPTION	AMOUNT (INR)
PAYMENT AND SALES	ADVANCES/ TRADE PAYMENTS FROM MS AGRI TO SIMARA FOODS PVT LTD	76,778,252
	SALES FROM MS AGRI TO SIMARA FOODS PVT	22,941,993
PURCHASES AND PAYMENT RECEIPT	PURCHASES OF MS AGRI FROM SIMARA FOODS PVT LTD	(57,115,462)
	PAYMENT RECEIPT OF M S AGRI FROM SIMARA FOODS PVT LTD	(9,630,100)





DEBIT NOTE FEB/2017-18-002	FINAL SETTLEMENT OF CHICKPEAS 5FCL SHIPMENT PERIOD OCT-NOV 2017, SALE MADE BY MS AGRI ON ACCOUNT OF SIMARA FOODS PVT LTD	2,187,166
DEBIT NOTE AUG/2019-20-001	FINAL SETTLEMENT OF PIGEON PEAS/TOOR 10(5+5) FCL FOR DELIVERY IN JULY 2019 & 15-AUG-2019. SALE MADE BY MS AGRI ON ACCOUNT OF SIMARA FOODS PVT LTD	937,200
DEBIT NOTE 2020-21/001 APN	RECOVERY OF UNPAID CHARGES REGARDING ADVANCE FUNDING TANJANIA PROGRAM/APN	2,327,336
DEBIT NOTE 2021-22/001 VNR	RECOVERY OF UNPAID CHARGES REGARDING ADVANCE FUNDING TANJANIA PROGRAM/VNR	2,479,943
DEBIT NOTE 2019-20/002	PAYMENT MADE BY MS AGRI TO THIRD PARTIES PP BAG/WAREHOUSE/LABOURS/TRANSPORT. ON BEHALF OF SIMARA FOODS PVT LTD	81,904
DEBIT NOTE FEB/2017-18-003	INTEREST ON SHORT TERM ADVANCE OF INR 7,00,000 MADE BY MS AGRI TO SIMARA FOODS PVT LTD, ADVANCE MADE ON 15-JAN-2018 AND REPAYMENT RECEIVED ON 19-JAN-2018	6,000
DEBIT NOTE APR 21/2017-18-001	Interest on Simara (Fertinvest) 01.04.2018 to 31.03.2019	826,718
DEBIT NOTE APR 21/2018-19/003	Interest on Simara (Fertinvest) 01.04.2018 to 31.03.2019	1,602,773
DEBIT NOTE APR 21/2019-20/003	Interest on Simara 01.04.2019 to 31.03.2020	1,718,285
DEBIT NOTE APR 21/2020-21/003	Interest on Simara 01.04.2020 to 31.03.2021	1,908,323
DEBIT NOTE APR 21/2021-22/003	Interest on Simara 01.04.2021 to 15.12.2021	6,273,924.50
DEBIT NOTE APR 21/2019-20/004	Interest on Rs. 937,200 Debit Note No 2019-20/001 from 30.08.19 to 31.03.21	267,102
DEBIT NOTE APR 21/2017-18/004A	Interest on Debit Note No 2017-18/002 from 12.02.18 to 31.03.18	50,930
DEBIT NOTE APR 21/201718/-004B	Interest on Debit Note No 2017-18/002 from 01.04.18 to 31.03.21	1,181,070





DEBIT NOTE APR 21/2020-21/004	Interest on Debit Note No 2020- 21/001 APN from 09.02.21 to 31.03.21	58,534
	FINAL BALANCE RECIEVBALE FROM SIMARA FOODS PVT LTD	54,881,893



15. In **Dalip Kaur & Ors. Vs. Jagnar Singh & Anr.** reported in **(2009) 14 SCC 696**, the Hon'ble Supreme Court considered the earlier cases regarding scope and ambit of jurisdiction under Section 482 Cr.P.C. and concluded as follows:-

"10. The High Court, therefore, should have posed a question as to whether any act of inducement on the part of the appellant has been raised by the second respondent and whether the appellant had an intention to cheat him from the very inception. If the dispute between the parties was essentially a civil dispute resulting from a breach of contract on the part of the appellants by non-refunding the amount of advance the same would not constitute an offence of cheating. Similar is the legal position in respect of an offence of criminal breach of trust having regard to its definition contained in Section 405 of the Indian Penal Code. See *Ajay Mitra v. State of M.P.* 2003CriLJ1249.

11. There cannot furthermore be any doubt that the High Court would exercise its inherent jurisdiction only when one or the other propositions of law, as laid down in *R. Kalyani v. Janak C. Mehta and Ors.* (2009)1SCC516 is attracted, which are as under:

(1) The High Court ordinarily would not exercise its inherent jurisdiction to quash a criminal proceeding and, in particular, a First Information Report unless the allegations contained therein, even if given face value and taken to be correct in their entirety, disclosed no cognizable offence.



(2) For the said purpose, the Court, save and except in very exceptional circumstances, would not look to any document relied upon by the defence.

(3) Such a power should be exercised very sparingly. If the allegations made in the FIR disclose commission of an offence, the court shall not go beyond the same and pass an order in favour of the accused to hold absence of any mens rea or actus reus.

(4) If the allegation discloses a civil dispute, the same by itself may not be a ground to hold that the criminal proceedings should not be allowed to continue.

Yet again, in *Hira Lal and Ors. v. State of U.P. and Ors.* 2009CriLJ2849, this Court held:

12. The parameters of interference with a criminal proceeding by the High Court in exercise of its jurisdiction under Section 482 of the Code are well known. One of the grounds on which such interference is permissible is that the allegations contained in the complaint petition even if given face value and taken to be correct in their entirety, commission of an offence is not disclosed. The High Court may also interfere where the action on the part of the complainant is mala fide. See also *Harmanpreet Singh Ahluwalia and Ors. v. State of Punjab and Ors.* 2009(7)SCALE85."

16. Recently in case of **Sachin Garg VS State of U.P. and another reported in 2024 (2) Supreme 73 Hon'ble Apex Court** has held as under:-

14. Past commercial relationship between the appellant's employer and the respondent no.2 is admitted. It would also be evident from the petition of complaint the dispute between the parties centered around the rate at which the assigned work was to be done. Neither in the petition of complainant nor in the initial deposition of the two witnesses





(that includes the complainant) the ingredients of the offence under Section 405 of the 1860 Code surfaced. Such commercial disputes over variation of rate cannot per se give rise to an offence under Section 405 of the 1860 Code without presence of any aggravating factor leading to the substantiation of its ingredients. We do not find any material to come to a prima facie finding that there was dishonest misappropriation or conversion of any material for the personal use of the appellant in relation to gas supplying work done by the respondent no.2. The said work was done in course of regular commercial transactions. It cannot be said that there was misappropriation or conversion of the subject property, being dissolved acetylene gas which was supplied to the factory for the purpose of battery manufacturing at EIL. The dispute pertains to the revision of rate per unit in an ongoing commercial transaction. What has emerged from the petition of complaint and the initial deposition made in support thereof that the accused-appellant wanted a rate variation and the entire dispute arose out of such stand of the appellant. On the basis of these materials, it cannot be said that there was evidence for commission of offence under Section 405/406. The High Court also did not apply the test formulated in the case of Dalip Kaur (supra). We have narrated the relevant passage from that decision earlier.

17. While expressing similar view, the Hon'ble Apex Court in case of **Paramjeet Batra VS State of Uttarakhand, 2013 (11) SCC 673** has held as under:-

"7. 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 criminal proceedings to prevent abuse of process of court.

8. As we have already noted, here the dispute is essentially about the profit of the hotel business and its ownership. The pending civil suit will take care of all those issues. The allegation that forged and fabricated documents are used by the appellant can also be dealt with in the said suit. Respondent 2's attempt to file similar complaint against the appellant having failed, he has filed the present complaint. The appellant has been acquitted in another case filed by respondent 2 against him alleging offence under Section 406 of the IPC. Possession of the shop in question has also been handed over by the appellant to respondent 2. In such a situation, in our opinion, continuation of the pending criminal proceedings would be abuse of the process of law. The High Court was wrong in holding otherwise."

18. At this stage, it is to be observed here that at several instances, this Court has noticed that criminal action are being used as a threat. Criminal action against a party means they have to deal with police, court hearings, loss of reputation and a variety of other kinds of pressure. Hence, to avoid such issues, many parties succumb to this pressure and concede to the other party. This raises an issue that is quite prevalent in India—Criminalisation of Civil Disputes. It is quite common in the Indian





context to cloak a civil dispute of Breach of Contract with a criminal offence of Cheating.


19. The Hon'ble Apex Court time and again has reiterated that how this trend abuses the judiciary and court process. In **Mohammed Ibrahim and others v. State of Bihar and another, (2009) 8 SCC 751**, the Supreme Court noted that :-

“This Court has time and again drawn attention to the growing tendency of the complainants attempting to give the cloak of a criminal offence to matters which are essentially and purely civil in nature, obviously either to apply pressure on the accused, or out of enmity towards the accused, or to subject the accused to harassment. Criminal courts should ensure that proceedings before it are not used for settling scores or to pressurize parties to settle civil disputes. But at the same time, it should be noted that several disputes of a civil nature may also contain the ingredients of criminal offences and if so, will have to be tried as criminal offences, even if they also amount to civil disputes.”

20. India differentiates between criminal law and civil law by different statutes, different remedies and different punishments. There are multiple reasons as to why criminalisation of commercial disputes can be harmful to the legal system. Commercial disputes are often complex matters involving contractual agreements, business practices, and interpretations of trade laws and regulations. Resolving such disputes through criminal prosecution could lead to overly harsh punishments that may not fit the circumstances. Maintaining a clear separation between criminal



law (designed to punish conduct that threatens public safety and welfare) and commercial law (designed to govern the fair conduct of business dealings) helps preserve the legitimacy and proper scope of each legal domain.



21. The Hon'ble Supreme Court has been extremely strict while dealing with such instances in the past. Recently, in the case of **Govind Prasad Kejriwal Vs. State of Bihar & Anr**, reported in **(2020) 16 SCC 714**, the Hon'ble Apex Court opined that it is indisputable that the magistrate must use a broad perspective and consider a *prima facie* case when conducting the investigation under Section 202 Cr.P.C. However, even when conducting or holding an inquiry under Section 202 Cr.P.C., the Magistrate is required to take into account a number of factors, including whether or not even a *prima facie* case is made out, whether or not the criminal proceedings that were initiated are an abuse of the legal system, whether or not the dispute is solely civil in nature, and whether or not the civil dispute is attempted to be given a criminal dispute colour.

22. Even cases where rendition of accounts is an important factor, there should be a strict bar to criminal remedy. It is a process that is quite common in businesses, criminalising such commercial offence will not only burden the courts but also halt several businesses. Section 482 Cr.P.C plays a vital role in ensuring no civil cases are turned into criminal cases. Inherent power of the High Courts allow them to quash any such cases which have been initiated due to malafide incidents. The Hon'ble



Supreme Court in the famous case of **State of Haryana & Ors. v. Bhajan Lal & Anr., 1992 Supp (1) SCC 335**, stated that the case should be quashed "where a criminal proceeding is manifestly attended with malafide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."



23. Need of the hour is to stop the inflow of frivolous criminal cases into the legal system. For this, the police should be advised to conduct preliminary enquiry into the case before filing an F.I.R. Advocates also simultaneously play an important role in preventing criminal frivolous litigation. A good advocate should never condone criminalisation of commercial matters. Courts should bring heavier sanctions against those who try and abuse the judicial system. Concluding, it is important to restore faith of citizens in civil remedies. Steps like speedier resolution of civil disputes, growth of arbitral tribunals, etc should be promoted.

24. Now a days, it has been noticed that tendency to convert civil wrongs into criminal offence is growing and people are intended to settle the civil or commercial dispute with the help of police as observed by the Hon'ble Apex Court in case of Mohammad Ibrahim (supra). Now time has come to deprecate this practice/tendency, and for this advocates as well as courts are required to be more vigilant. As an advocate serving the Indian judiciary, his primary duty is to represent his clients in court proceedings. This involves presenting their case, arguing on their



behalf, and protecting their rights and interests. He must provide legal advice to your clients on various matters, including their rights, obligations, and potential legal consequences of their actions. This advice should be based on his legal expertise and knowledge of the relevant laws. Simultaneously he is expected to adhere to high ethical standards and professional conduct. This includes being honest, diligent, and respectful towards the court, opposing counsel, and all parties involved in the legal proceedings. He has a basic responsibility to uphold the rule of law and promote justice. This involves advocating for fair and equal treatment of all individuals, irrespective of their social status, and ensuring that the principles of justice are upheld in the legal system. As a lawyer serving the Indian judiciary, it is crucial to prioritize the interests of justice and uphold the principles of professional ethics. This means that an advocate should not blindly follow the instructions of clients if they are unethical, illegal, or contrary to the principles of justice. Advocates have a duty to act in the best interests of their clients, but this duty is subject to certain limitations. The Advocates Act, 1961, and the Bar Council of India Rules lay down the ethical guidelines that advocates must adhere to. These guidelines emphasize the importance of maintaining professional integrity, promoting justice, and upholding the rule of law. If a client's instructions are in violation of these ethical guidelines or if they involve engaging in dishonest or unethical practices, it is the duty of the advocate to advise the client against such actions. Advocates are expected to provide honest and unbiased advice to their clients, even if it may not align with the client's desired outcome. Furthermore, an advocate's duty is not





only towards their clients but also towards the court and the administration of justice. Advocates are officers of the court and have a responsibility to assist the court in reaching a just decision. This duty requires them to present the facts and arguments honestly and to refrain from misleading the court.

25. In summary, an advocate should not blindly follow the instructions of clients if they are unethical, illegal, or contrary to the principles of justice. Advocates have a duty to act in the best interests of justice and uphold the ethical standards set by the legal profession.

26. Simultaneously, Courts should not hesitate in quashing the criminal proceedings which are essentially arising out of civil or commercial disputes between the two parties as held by the Hon'ble Apex Court in case of Paramjeet Batra (supra) and Dalip Kaur (supra). Police stations can/should not be allowed to work as recovery agent or to make pressure upon one party of the litigation in the garb of criminal investigation to settle the civil disputes.

27. Lastly, before concluding this judgment, this Court, appreciates the witting efforts and valuable assistance rendered by learned counsel Mr. Kapil Gupta and Mr. Hemant Nahta.

28. In wake of the discussion made hereinabove, this Court deems it a fit case for exercising powers under Section 482 Cr.P.C. for quashing the impugned FIR and all other subsequent





proceedings arising out of it as continuance of proceedings of the impugned FIR would amount to abuse of process of law. Accordingly, the FIR No.239/2022 registered at Police Station Banipark Jaipur and all other subsequent proceedings arising out of it, are hereby quashed.

(ANIL KUMAR UPMAN),J

Gautam Jain/

