



2026:CGHC:13883-DB

**NAFR****HIGH COURT OF CHHATTISGARH AT BILASPUR****CRMP No. 460 of 2024**

1. Atal Godwani Son of Late Shri Sirumal Godwani Aged About 56 Years R/o. Ward No. 24, Gurunanak Nagar, Station Road, Durg, Tahsil and District Durg, C.G.
2. Vikash Makhija Son of Gagan Das Makhija Aged About 35 Years R/o Sindhi Colony, Durg, Tahsil and District Durg, C.G.
3. Ravi Kevaltani Son Of Prabhu Das Kevaltani Aged About 40 Years R/o Behind Arjunda Dairy, Sindhi Colony, Durg, Tahsil And District Durg, C.G.

**--- Petitioner(s)****versus**

1. Omprakash Kotwani Son of Radhakishan Kotwani Aged About 37 Years R/o Polsaipara, Durg, Tahsil And District Durg, C.G.
2. State of Chhattisgarh Through Police Station Kotwali Durg, Dist. Durg, C.G.

**--- Respondent(s)****CRMP No. 3537 of 2025**

1. Atal Godwani S/o Late Sirumal Godwani Aged About 58 Years Resident of Ward No.24, Gurunanak Nagar, Station Road, Mohan Nagar, Durg District- Durg (C.G.)
2. Vikas Makhija S/o Shri Gagandas Makhija Aged About 37 Years Resident – of Sindhi Colony, Durg, District- Durg (C.G.)
3. Ravi Kewaltani S/o Shir Prabhudas Kewaltani Aged About 43 Years Resident Of Sindhi Colony, Durg, District- Durg (C.G.)

**---Petitioner(s)**

**versus**

1. State of Chhattisgarh Through- Station House Officer, Police Station Kotwali, Durg, District- Durg (C.G.)
2. Om Prakash Kotwani S/o Shri Radhakishan Kotwani Aged About 37 Years Resident of Polsaipara, Durg, District- Durg (C.G.)

--- Respondent(s)

(Cause-title taken from Case Information System)

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For Petitioners	:	Mr. B.P. Sharma and Mr. M.L. Sakat, Advocates.
For Respondent	:	Mr. Vivek Kumar Shrivastava, Advocate for respondent No. 1 in CRMP No. 460 of 2024 and for respondent No. 2 in CRMP No. 3537 of 2025.
For State	:	Mr. Saumya Rai, Deputy Government Advocate in both the cases.

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**Hon'ble Shri Ramesh Sinha, Chief Justice**

**Hon'ble Shri Arvind Kumar Verma, Judge**

**Order on Board**

**Per Ramesh Sinha, Chief Justice**

**24.03.2026**

1. Heard Mr. B.P. Sharma and Mr. M.L. Sakat, learned counsel for the petitioners. Also heard Mr. Vivek Kumar Shrivastava, learned counsel, appearing for respondent No. 1 in CRMP No. 460 of 2024 and for respondent No. 2 in CRMP No. 3537 of 2025, and Mr. Saumya Rai, learned Deputy Government Advocate, appearing for the State in both the cases.
2. The CRMP No. 460 of 2024 has been filed by the petitioners with the following prayer:

*“It is, therefore, prayed that this Hon’ble Court may kindly be pleased to allow this application, and quash the order dated 05.02.2024 (Annexure P/1), passed by the Judicial Magistrate, First Class, Durg, District Durg (C.G.) in criminal case MJC Cri. No. 982 of 2024, and also quashed the First Information Report No. 0062 of 2024 (Annexure P/2), lodged by the Kotwali Durg, District Durg (C.G.), against the petitioners, in the interest of justice.”*

3. The CRMP No. 3537 of 2025 has been filed by the petitioners with the following prayer:

*“It is, therefore, prayed that this Hon’ble Court may be pleased to exercise its inherent jurisdiction under Section 528 of BNSS and in exercise thereof be pleased to admit the matter, call for the records of Criminal Case No. RCC/15505/2024 and after hearing the parties in the matter, be pleased to set aside the order date 12.11.2025 (Annexure P/1) passed by the learned Chief Judicial Magistrate Durg in Criminal Case No. RCC/15505/2024 and in effect allow the closure report submitted by respondent No.1 because continuation of criminal proceeding against petitioners after mutual settlement between the parties is not only abuse of process of Court and abuse of process of law, but also in violation of*

*petitioners' fundamental and constitutional rights in the facts and circumstances of the case."*

4. Learned counsel for the petitioners submits that the dispute arises out of a partnership arrangement relating to "The Colours Group", engaged in real estate and construction activities. It is submitted that the partnership deed contains an arbitration clause for resolution of disputes, and despite the same, the dispute has been given a criminal colour by invoking jurisdiction under Section 156(3) of the Cr.P.C.

5. It is submitted by the learned counsel for the petitioners that the learned Magistrate, without conducting any preliminary inquiry and without proper application of judicial mind, directed registration of FIR, resulting in FIR No. 0062/2024 under Section 420/34 of the IPC. It is further submitted that the essential ingredients of cheating, particularly dishonest intention at inception, are not made out and the dispute is purely civil in nature.

6. Learned counsel for the petitioners further contended that the parties subsequently invoked arbitration and an arbitral award dated 17.05.2024 was passed on the basis of mutual settlement. It is submitted that private respondent had initially consented to closure of criminal proceedings, pursuant to which the police submitted a closure report under Section 173 of the Cr.P.C. He would submit that the learned Magistrate erred in rejecting the closure report and directing further investigation, despite the settlement between the parties. It is

contended that continuation of criminal proceedings amounts to abuse of process of law.

7. *Per contra*, learned counsel for private respondent submits that the Joint Memorandum of Compromise was executed voluntarily and a total sum of Rs. 90,00,000/- was agreed to be paid towards full and final settlement, out of which Rs. 25,00,000/- has already been paid. The balance amount of Rs. 65,00,000/- was tendered through cheques, which were dishonoured. He further submitted that due to dishonour of cheques and non-compliance of the arbitral award, private respondent was constrained to oppose the closure report. It is also submitted that, as per the terms of the compromise, the petitioners are additionally liable to pay a sum of Rs. 11,00,000/- towards damages/compensation. It is contended that unless the entire agreed amount along with the said amount of Rs. 11,00,000/- is paid, the settlement cannot be treated as fully complied with.

8. Learned counsel for private respondent further contended that private respondent continues to remain a partner till full compliance of the arbitral award and that certain alleged acts of the petitioners are in violation of the terms of settlement.

9. Learned State counsel submits that the police acted in accordance with the order passed under Section 156(3) of the Cr.P.C. It is submitted that after investigation, a closure report was submitted; however, the learned Magistrate, being dissatisfied, directed further investigation, which is permissible in law.

**10.** Having heard learned counsel for the parties and perused the record, it is evident that the dispute between the parties arises out of a partnership agreement and business transactions. The allegations essentially pertain to breach of contractual obligations and subsequent disputes regarding settlement.

**11.** It is not in dispute that the parties entered into a compromise and the matter was referred to arbitration, culminating in an arbitral award dated 17.05.2024. The nature of the dispute is thus predominantly civil and contractual.

**12.** The opposition to the closure report by private respondent is primarily based on alleged non-compliance of the settlement, including dishonour of cheques. Such grievances, in the considered opinion of this Court, are enforceable through civil remedies, including execution of the arbitral award.

**13.** The essential ingredients of the offence under Section 420 of the IPC, particularly dishonest intention at the inception of the transaction, are not prima facie made out from the material available on record.

**14.** In these circumstances, continuation of criminal proceedings would amount to abuse of process of law and would result in converting a civil dispute into a criminal prosecution, which is impermissible.

**15.** At the same time, it is noted that certain monetary obligations under the settlement remain disputed. The petitioners have placed on record a demand draft of Rs. 65,00,000/- along with the present petition, evidencing their intention to comply with the settlement.

**16.** Considering the submissions of private respondent regarding payment of an additional sum of Rs. 11,00,000/-, this Court is of the opinion that the interest of justice would be adequately safeguarded by directing payment of the said amount.

**17.** Accordingly, the petitioners are directed to pay a sum of Rs. 11,00,000/- to private respondent within a period of one week from today.

**18.** The demand draft of Rs. 65,00,000/- filed by the petitioners along with the petition shall be handed over/returned to private respondent forthwith, subject to proper identification.

**19.** In view of the aforesaid facts and the settled position of law that criminal proceedings cannot be permitted to continue in matters which are essentially civil in nature and have been settled between the parties, this Court finds that both the petitions deserve to be allowed.

**20.** Accordingly, the order dated 05.02.2024 passed by the Judicial Magistrate First Class, Durg, and FIR No. 0062/2024 registered at Police Station Kotwali, Durg, along with all consequential proceedings, are hereby quashed.

**21.** The order dated 12.11.2025 passed by the Chief Judicial Magistrate, Durg, rejecting the closure report and directing further investigation is set aside, and the closure report submitted by the police stands accepted.

**22.** It is made clear that the aforesaid directions regarding payment

shall not preclude private respondent from availing appropriate remedies in accordance with law in case of any further surviving grievance.

**23.** With the aforesaid observations and directions, both the petitions stand **allowed**.

**Sd/-  
(Arvind Kumar Verma)  
Judge**

**Sd/-  
(Ramesh Sinha)  
Chief Justice**