



Reportable

2024 INSC 48

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2024
(arising out of SLP(CrL.) No. 14423 OF 2023)

JAY SHRI & ANR.

APPELLANT(S)

VERSUS

STATE OF RAJASTHAN

RESPONDENT(S)

O R D E R

Leave granted.

With the consent of the learned counsel for the parties, we have taken up the appeal for hearing. Right to file reply is waived.

We have heard learned counsel for the parties, including counsel for the complainant/informant, who has filed an application seeking impleadment, which is allowed impleading him as respondent no. 2 to the present appeal.

Prima facie, in our opinion, mere breach of contract does not amount to an offence under Section 420 or Section 406 of the Indian Penal Code, 1860¹, unless fraudulent or dishonest intention is shown right at the beginning of the transaction.² This Court has time and again cautioned about converting purely civil disputes

¹ For short, "IPC".

² *Sarabjit Kaur v. State of Punjab and Another*, (2023) 5 SCC 360.

into criminal cases.³ Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged.⁴

In view of the aforesaid position, we feel that the appellants - Jay Shri and Hitesh Kela have made out their case for grant of anticipatory bail. Accordingly, it is directed that in the event of the appellants - Jay Shri and Hitesh Kela being arrested in connection with First Information Report (FIR) no. 0220/2022 dated 26.08.2022 registered with Police Station - Osiyan, District - Jodhpur Rural, Rajasthan for the offence(s) punishable under Sections 420 and 120B of the IPC, they shall be released on bail by the arresting/investigating officer or the trial court on terms and conditions to be fixed by the trial court.

In addition, the appellants - Jay Shri and Hitesh Kela shall comply with the conditions mentioned in Section 438(2) of the Code of Criminal Procedure, 1973.

Recording the aforesaid, the impugned judgment/order is set aside and the appeal is allowed.

We clarify that the grant of anticipatory bail and the observations made in the present order will not be treated as an expression of opinion on the merits of the case. Further, this order will have no bearing whatsoever on any civil proceeding(s).

³ *Indian Oil Corpn. v. NEPC India Ltd. and Others*, (2006) 6 SCC 736; *Vijay Kumar Ghai and Others v. State of West Bengal and Others*, (2022) 7 SCC 124.

⁴ *Indian Oil Corpn. v. NEPC India Ltd. and Others*, (2006) 6 SCC 736, para 13.

Pending application(s), if any, shall stand disposed of.

.....J.
(SANJIV KHANNA)

.....J.
(DIPANKAR DATTA)

NEW DELHI;
JANUARY 19, 2024.