HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Criminal Misc(Pet.) No. 10419/2025

1. Gangeshwar Lal Shrivastava S/o Late Sh. Avadhesh Shrivastava, Aged About 50 Years, Office At New Link Road, Andheri West, Mumbai, Railway, Maharashtra. India
2. Ashok Dubey S/o Shri Ramapati Dubey, Aged About 51 Years, Office At New Link Road, Andheri West, Mumbai, Railway, Maharashtra. India

----Petitioners

Versus

1. State Of Rajasthan, Through Pp
2. Ajay Murdiya S/o Late Sh. Mahaveer Singh, R/o 9 Govindpura, Opposite Mb College Ground, Bhupalpura, Udaipur. Raj..

----Respondents

<u>Connected With</u>

S.B. Criminal Misc(Pet.) No. 10167/2025

1. Vikram Praveen Bhatt S/o Praveen Bhatt, Aged About 56 Years, 41/42/b Ganga Bhawan, J.p Narayan Road, Off Yari Road, Andheri West, Vasawa, Mumbai Maharashtra-400061
2. Shwetambari Bhatt W/o Vikram Praveen Bhatt, Aged About 44 Years, 41/42/b Ganga Bhawan, J.p Narayan Road, Off Yari Road, Andheri West, Vasawa, Mumbai Maharashtra-400061
3. Mehbub Ansari S/o Usmaan Ansari, Aged About 40 Years, B/304 Shiv Oswal Palace, Chs Ltd., Meera Road, Thane Mumbai, Maharashtra
4. Mudit Buttan S/o Dharmendra Butta, Aged About 29 Years, R/o. G-58, 3D Floor, West Patel Nagar, Delhi-110008
5. Krishna Vikram Bhatt D/o Vikram Bhatt, Aged About 30 Years, 2B/1718 Raheja Classic, New Link Road, Andheri West, Near Infinity Mall Azad Nagar, Mumbai Maharashtra-400053

----Petitioners

Versus

1. State Of Rajasthan, Through Secretary, Home Department, Secretariat Building, Rajasthan
2. Ajay Murdia S/o Late Sh. Mahavir Singh, 9 Govindpura, M.b College, Ground Ke Samne, P.s Bhopalpura Udaipur, Rajasthan

----Respondents

For Petitioner(s)	:	Mr. Prem Prakash with Mr. P.D. Shukla Mr. Mahendra Godara Mr. DS Gharsana
For Respondent(s)	:	Mr. Deepak Choudhary, AAG Mr. Hanuman Prajapat, PP Mr. RS Bhati, PP Mr. Vikas Balia, Sr.Adv. (through VC) with Mr. Pranav Bhardwaj Mr. Gaurav Srivastava, IG Police, Udaipur along with Superintendent of Police, Udaipur & Investigating Officer (through VC)

HON'BLE MR. JUSTICE SAMEER JAIN

Judgment

1	Arguments concluded on	15/12/2025
2	Judgment Reserved on	15/12/2025
3	Full Judgment or Operative Part Pronounced	Full Judgment
4	Pronounced on	5/01/2026

REPORTABLE :

1. The present judgment was reserved on 15.12.2025 at the Rajasthan High Court, Jodhpur Bench during the rotational sitting, and in accordance with the roster assigned, thereby. Pursuant to the directions of this Court, the parties submitted their written submissions, the last of which were filed on 17.12.2025.

The judgment is being pronounced on the first working day of the Court after the conclusion of the winter vacations.

2. The present petitions are filed for quashing & setting aside the FIR No.213/2025 registered at Police Station Bhupalpura, District Udaipur for the offences under Sections 318(4), 316(2), 336(3), 340(2) and 61(2) of Bhartiya Nyay Sanhita, 2023 (BNS, 2023) and entire proceedings arising out of the impugned FIR. Taking note of the fact that the present petitions are intrinsically interlinked, arising out of the same issue and seeking identical reliefs, the Court deemed it appropriate to club the present petitions for joint consideration. Accordingly, the same are being adjudicated by way of this common judgment. It is clarified that the present judgment shall apply *mutatis mutandis* to both the petitions.

3. At the outset, learned counsel appearing on behalf of the petitioner submitted that the principal accused i.e. petitioner No.1, namely Shri Vikram Praveen Bhatt, is a well-known and reputed film maker in the Indian Film Industry, and petitioner Nos.2 to 5 in SBCRLMP No.10167/2025 are close relatives and/or business partners associated with him. Further, the petitioners in the connected SBCRLMP No.10149/2025, namely Shri Gangeshwar Lal Shrivastava and Shri Ashok Dubey, are duly elected office bearers of the Federation of Western India Cine Employees (hereinafter referred to as "FWICE"); they were, at the relevant point of time, discharging their official functions as Treasurer and Chairman of the Dispute Redressal Committee respectively, and were required to facilitate resolution of disputes inter se between

the members and complainants strictly in accordance with Clause 17A of the governing provisions, which deals with the constitution and functioning of dispute settlement committees.

4. Learned counsel for the petitioners contended that petitioner No.1 and respondent No.2 were introduced to each other through a common acquaintance, namely Shri Dinesh Katariya, in the month of April, 2024. It was further submitted that respondent No.2, who is the present complainant, expressed his intention to produce a biopic based on his own life however, subsequently his wife expired. It was further contended that discussions in this regard were initiated between the parties; and pursuant thereto, on 24.05.2024, a First Term Sheet Agreement was executed between VSB LLP, a firm of petitioner No.1, and Indira Enterprises, belonging to respondent No.2, for the production of two films, with a total proposed investment of Rs. 40 Crore. It was also brought to the notice of the Court that the said agreement specifically contained a clause conferring exclusive jurisdiction upon the Courts at Mumbai in the event of any dispute arising between the parties.

5. It was further submitted that subsequently, on 21.06.2024, an Addendum Term Sheet was executed between the parties, whereby the scope of collaboration was expanded to include the production of four films, upon an additional investment of Rs. 7 Crore. Learned counsel further submitted that in the month of September, 2024, a grand launch event was organised at JW Marriott, Mumbai, wherein the production of the said four films was publicly announced. It was also contended that on

21.03.2025, one of the films was completed; however, upon its release in March, 2025, the film did not perform as expected commercially. Consequently, respondent No.2 unilaterally rolled back the finance model earlier contemplated under the agreements and ignored his own contractual obligations, thereby committing breach on his part.

6. It was submitted that as a consequence of the aforesaid breach by respondent No.2, he, in collusion with his employees, unlawfully removed and misappropriated confidential financial documents belonging to petitioner Nos.1 and 2 in-between the period of March, 2025 and September, 2025; and that such acts were committed in connivance with Shri Rakesh Panigrahi and Assistant Editor Shri Jitendra Sharma. It was also apprised to the Court that in respect thereof, an FIR was registered on 10.10.2025 at Police Station Versova, Thane, Mumbai, against Shri Rakesh Panigrahi and Shri Jitendra Sharma for offences under Sections 316(4) and 3(5) of the Bharatiya Nyaya Sanhita, 2023, pertaining to theft, misappropriation and unauthorised removal of confidential data. It was further submitted that thereafter, on 23.10.2025, respondent No.2, in collusion with Shri Rakesh Panigrahi, hatched a conspiracy to falsely implicate the present petitioners, which culminated in the registration of the impugned FIR(s).

7. In the aforesaid backdrop, learned counsel submitted that the present proceedings arising out of the impugned FIR are wholly illegal, untenable in law, and liable to be quashed and set aside on the following, amongst other, grounds:

7.1 The impugned FIR emanates from a purely contractual relationship between two private parties, and the agreements were acted upon in their true letter and spirit, and the dispute, if any, is civil and commercial in nature. Thence, the attempt to give a criminal colour to a civil dispute is unwarranted and contrary to the settled position of law, as laid down by the Hon'ble Supreme Court in the ratio encapsulated in **Indian Oil Corporation v. NEPC India Ltd., 2006 (3) SCC (Crl.) 188**.

7.2 The agreements between the parties expressly confer exclusive jurisdiction upon the Courts at Mumbai, and therefore, initiation of criminal proceedings elsewhere is without jurisdiction and unsustainable.

7.3 An alternative remedy by way of amicable settlement through FWICE was already being pursued, during which a demand of Rs. 11 Crore was raised at the behest of the respondents.

8. It was submitted that, in view of the above, the registration of the FIR and the proceedings emanating therefrom amount to a gross misuse and abuse of the criminal justice system. Learned counsel further submitted that the timing of the impugned FIR, when examined in the light of the sequence of events, clearly establishes that the same is nothing but a counterblast to the earlier FIR lodged at Mumbai against the employees of respondent No.2.

9. In support of the aforesaid contentions, reliance was placed on the judgment of the Hon'ble Supreme Court in **State of Haryana & Ors. v. Bhajan Lal & Ors., 1992 Supp. (1) SCC**

335, wherein it was held that criminal proceedings which are manifestly attended with mala fide and instituted with an ulterior motive to wreak vengeance or to settle private and personal scores deserve to be quashed. It was further submitted that even a bare reading of the contents of the impugned FIR itself reflects that out of the four films, two were duly completed, and the remaining two could not be completed only on account of the unilateral rollback of the finance model by the complainant, thereby demonstrating that the dispute is purely commercial in nature.

10. Learned counsel also submitted that no preliminary enquiry, as mandated under Section 173(3) Cr.P.C., was conducted to ascertain the existence of a *prima facie* criminal offence prior to registration of the FIR, in clear violation of the principles laid down by the Hon'ble Supreme Court in the case of **Lalita Kumari v. Government of Uttar Pradesh & Ors., 2014 (2) SCC 1**. It was contended that by invoking the forum at Udaipur and disregarding settled principles of law, the authorities, in connivance with the police officials, acted with *mala fide* intent and in a conspiratorial manner, resulting in vindictive and arbitrary action against the petitioners.

11. It was further submitted that there exists a clear and well-recognised distinction between a mere breach of contract and the offence of criminal breach of trust, and the facts of the present case, even if taken at face value, disclose at best a breach of contract and not any criminal offence. In this regard and in support of the contentions made insofar, reliance was placed upon

various judgments passed by the Hon'ble Supreme Court *inter alia*, **Delhi Race Club (1940) Ltd. & Ors. v. State of U.P. & Anr., 2024 (10) SCC 690.** It was also submitted that the agreements between the parties were acted upon openly and in the public domain, and there was neither any allegation nor any material to suggest the existence of fraudulent or dishonest intention on the part of the petitioners from the inception of the transaction, which is a *sine qua non* for offences of cheating or criminal breach of trust. Therefore, it can be deduced that the impugned FIR is an afterthought, amounts to abuse of the process of law, and impermissibly seeks to convert a civil dispute into a criminal prosecution.

12. Learned counsel lastly submitted that the conduct of the Rajasthan Police is in blatant disregard of the mandate laid down by the Hon'ble Supreme Court in the case of **Arnesh Kumar v. State of Bihar & Anr., 2014 (8) SCC 273** and **2009 (14) SCC 244**: **Sundar Babu & Ors. v. State of Tamil Nadu** inasmuch as the authorities ignored the settled safeguards, failed to conduct a preliminary enquiry, did not issue notices or summons, and proceeded with arrest in undue haste, in violation of established legal principles.

13. In view of the aforesaid facts and circumstances, learned counsel for the petitioners prayed that the present petitions be allowed and the impugned FIR, along with all proceedings arising therefrom, be quashed and set aside.

14. *Per contra*, learned Public Prosecutor, along with learned counsel appearing on behalf of the complainant–

respondent No.2, stoutly opposed the prayers made by learned counsel for the petitioners. It was submitted that the present petitions are based on misrepresentation and suppression of material facts and that the petitioners have not approached this Court with clean hands.

15. It was further submitted that a preliminary enquiry was duly conducted. A *'parivad'* was received at the instance of respondent No.2 on 28.10.2025, whereupon the Superintendent of Police, Shri Yogesh Goyal, on the same date i.e. 28.10.2025, directed that a preliminary enquiry be undertaken. It was submitted that the Investigating Officer, Shri Chhagan Purohit, conducted the preliminary enquiry and also visited Mumbai in this connection. During the course of such enquiry, it was revealed that an amount of Rs. 2.50 Crore, paid as the initial amount, was siphoned off and diverted. It was also submitted that subsequent to the first contract, a fresh LLP Agreement was executed conferring jurisdiction upon Udaipur, which agreement was executed by Mrs. Shewtambhari Bhatt. During the enquiry, WhatsApp chats were also examined.

16. It was submitted that under the revised agreement, four films for different amounts were required to be completed within stipulated timelines, subject to clarification and reconciliation of bills by respondent No.2 or his authorised representatives. However, the said clarification was not provided and the funds were diverted. It was further submitted that investigation was conducted through various vendors, creditors, and persons associated with the film industry. Nonetheless, past

incidents were also examined, including FIR No.205/2023 and proceedings before the NCLT, Mumbai Bench, wherein insolvency proceedings were initiated against the petitioners. Only thereafter, directions were issued by the Superintendent of Police on 06.11.2025 for registration of the present FIR, and pursuant to the preliminary enquiry, the FIR came to be registered on 08.11.2025.

17. It was apprised to the Court that notices were issued to the accused-petitioners through e-mail on 23.11.2025, 25.11.2025, and 29.11.2025; however, the replies received were unsatisfactory and evasive. It was submitted that proceedings relating to anticipatory bail moved before the Hon'ble Bombay High Court is concealed by the petitioners.

18. It was submitted that in view of the prevailing circumstances, witnesses and evidence were being tampered with and white-washed, and therefore arrest of the accused-petitioners became inevitable. It was submitted that investigation has revealed siphoning and diversion of funds towards settlement of old dues and favoured vendors not related to respondent no.2 or parties to the contract. It was alleged that funds were returned by raising inflated invoices and settling the same personally, involving relatives and the accused themselves, which is evident from the enquiry and factual report.

19. Learned counsel for respondent No.2 further submitted that from the inception of the transaction, the accused-petitioners insisted on exclusive control over utilization, routing, and accounting of funds, with no transparency or timely production.

The first tranche of Rs. 2.50 Crore paid on 31.05.2024 through Real Time Gross Settlement (RTGS) for a specific purpose was diverted and layered through pre-identified vendors and intermediary accounts without any bona fide production activity. It was submitted that funds allocated for different films were similarly diverted and that the films were never actually commenced. The investigation revealed a modus operandi involving inflated and fictitious invoices, which were refunded and transferred back to the accused persons after deduction of nominal commission. In support of the contentions made insofar, reliance was placed on transaction trails showing siphoning of funds to caterers and make-up artists, demonstrating dishonest diversion of entrusted funds.

20. It was submitted that all accused-petitioners played interconnected roles and acted in concert, and that even other connected petitioners exerted pressure and coercion upon the complainant to extract a further amount of Rs. 11 Crore. It was also submitted that under pressure and influence, attempts were made to manipulate settlement proceedings and record incorrect order sheets.

21. It was also submitted that due to financial distress, multiple litigations and insolvency proceedings are pending against the petitioners, and that material facts relating to police complaints and initiation of proceedings under the Insolvency and Bankruptcy Code against the firms of the petitioners have been suppressed. In support of the contentions made insofar, reliance was placed upon a catena of judgments passed by the Hon'ble

Supreme Court, *inter alia*, **M/s. Niharika Infrastructure Pvt. Vs. The State of Maharashtra : (2021) SCC OnLine SC 315, Dineshbhai Chandubhai Patel Vs. The State of Gujarat : (2018) 3 SCC 104, Ramveer Upadhyay Vs. The State of Uttar Pradesh : (2022) Live Law (SC) 396, Central Bureau of Investigation Vs. Aryan Singh Etc. : (2023) SCC Online SC 379, Mahendra KC Vs. The State of Karnataka & Anr. : (2022) 2 SCC 2019, Punit Beriwal Vs. The State of NCT of Delhi & Ors.: 2025 SCC OnLine SC 983 & Preeti Saraf Vs. State of NCT of Delhi : 2021 (16) SCC 142.**

22. It was submitted that applications for anticipatory/transit bail filed by the accused-petitioners were dismissed by the Hon'ble Bombay High Court.

23. In conclusion, it was submitted that a bare perusal of the FIR discloses commission of cognizable offences involving dishonest intention and diversion of funds, necessitating a full-fledged investigation. Accordingly, it was prayed that the present petitions be dismissed.

24. Upon assiduous consideration of the rival submissions advanced by learned counsel for the parties, perusal of the material placed on record, and examination of the FIR and the attendant circumstances, this Court is of the considered view that no case is made out for exercise of inherent jurisdiction under Section 528 of BNSS for quashing of the impugned FIR or the proceedings arising therefrom.

25. At the outset, this Court notes that the allegations contained in the FIR, read as a whole and taken at their face

value, disclose specific and detailed assertions of siphoning, diversion, and misappropriation of funds entrusted for a limited and defined purpose. The FIR, coupled with the material collected during preliminary enquiry, *prima facie* reveals allegations of dishonest intent, diversion of funds through intermediary accounts, and use of inflated and fictitious invoices. Such allegations cannot be brushed aside as mere breach of contract at this stage. Withal, this Court also deems it apposite to jot down as follows:

25.1 That the record demonstrates that a preliminary enquiry was duly conducted prior to registration of the FIR. The contention raised on behalf of the petitioners that no such enquiry was undertaken is belied by the material on record. It is noted that notices/summons were issued to the petitioners on 23.11.2025 and 29.11.2025, to which *prima facie* unsatisfactory replies were submitted. The existence of such notices and replies clearly negates the plea of non-compliance with the mandate laid down in **Arnesh Kumar (supra)** and the alleged violation of due procedure of law.

25.2 The record reflects that upon receipt of the *Parivad* on 28.10.2025, the Superintendent of Police directed a preliminary enquiry, which was carried out by the Investigating Officer, including visits to Mumbai and examination of relevant documents and electronic material. Only thereafter, upon satisfaction regarding commission of cognizable offences, directions were issued for registration of the FIR.

25.3 That the preliminary enquiry, read in conjunction with the record, *prima facie* reveals allegations of financial diversion of funds from the inception of the transaction, including diversion to entities not contemplated under the private contract. The execution of an additional agreement, whereby the jurisdiction clause was altered from Mumbai to Udaipur, also forms part of the allegations which are subject matter of investigation.

25.4 That the record further reflects references to past proceedings, including criminal antecedents and insolvency-related proceedings qua the firm of the petitioners, indicating financial distress. These aspects form part of the investigative material and cannot be ignored at this stage.

26. At this juncture, this Court cannot conclusively determine whether the dispute is purely one of breach of contract or constitutes the offence of criminal breach of trust. *Prima facie,* the material emerging from the enquiry conducted by the State, as well as the allegations levelled by the complainant, disclose sufficient grounds warranting investigation. The existence of such *prima facie* material restrains this Court from entering into the merits of the allegations or undertaking an assessment of the veracity thereof while exercising jurisdiction under Section 528 of BNSS.

27. Additionally, it can be noted that merely because a transaction has a contractual foundation does not *ipso facto* bar criminal proceedings, where the allegations disclose ingredients of cognizable offences. The material on record indicates that the prosecution case is not confined to non-performance of contractual

obligations, but extends to allegations of deliberate diversion of funds, lack of transparency, and dishonest utilisation of monies entrusted for film production.

28. The plea of mala fides and the argument that the FIR is a counterblast to earlier proceedings are matters which involve disputed questions of fact. At this stage, such issues cannot be conclusively adjudicated in proceedings under Section 528 of BNSS. The inherent jurisdiction of this Court is not intended to conduct a mini trial or to evaluate the probative value of evidence, particularly when investigation is still ongoing.

29. This Court is further mindful of the settled legal position that quashing of criminal proceedings at the threshold is an exception and not the rule. The parameters laid down by the Hon'ble Supreme Court in the case of **Bhajan Lal (supra)** are required to be applied with circumspection. In the present case, the allegations do not fall within the categories warranting quashment, as the FIR cannot be said to be inherently absurd, mala fide on its face, or devoid of the essential ingredients of the alleged offences.

30. Withal, the Hon'ble Supreme Court whilst governing the scope of interference under Section 482 Cr.P.C./528 of BNSS, in **M/s Neeharika Infrastructure Pvt. Ltd. (supra),** held that at the initial stage the sole test is whether the FIR discloses a cognizable offence, and if it does, the enquiry must proceed without judicial interference, as the police have a statutory right to investigate and the High Court cannot examine the truthfulness of allegations at this stage. Similarly, in **Dineshbhai Chandubhai**

Patel (supra), the Apex Court categorically held that once the ingredients of an offence are disclosed, the High Court must refrain from acting as an investigating agency or appellate forum to test the veracity of allegations, as factual enquiries lie exclusively within the domain of the investigating officer. The same principle was reiterated in the case of **Ramveer Upadhyay (supra)**, wherein it was held that the truthfulness of allegations is a matter for trial and proceedings cannot be quashed merely because the complainant may have a personal grudge, so long as a cognizable offence is disclosed. Further, in **Central Bureau of Investigation v. Aryan Singh (2023 SCC Online SC 379),** the Supreme Court set aside the High Court's conduct of a 'mini-trial', holding that at this stage the Court is only required to assess whether sufficient material exists to proceed and anything beyond that amounts to a prohibited mini-trial; and lastly, in **Mahendra KC (supra),** <u>the Apex Court clarified that while exercising jurisdiction under Section 482 Cr.P.C./528 BNSS, the High Court must examine the allegations "as they stand" without adding or subtracting anything, and that analysing evidence or testing the veracity of allegations at the initial stage is impermissible and beyond the scope of inherent jurisdiction.</u>

31. It is also pertinent to note that in the matter at hand applications for anticipatory/transit bail moved by the petitioners have already been dismissed by the Hon'ble Bombay High Court. The investigation, as reflected from the record, is at a crucial stage and involves examination of financial transactions, vendors, and interlinked roles of the accused-petitioners. Interference by

this Court at this juncture would impede a fair and complete investigation.

32. Thence, in summation of the aforementioned it can be noted that the FIR, read as a whole, along with the material collected during the preliminary enquiry, *prima facie* discloses allegations of siphoning of enormous amount upto the tune of Rs. 2.5 Crore qua the total amount in question being 47 Crore approximately, diversion and misappropriation of entrusted funds, involving dishonest intent, use of intermediary accounts and inflated or fictitious invoices, which cannot be reduced to a mere breach of contract at this stage. It is note-worthy that it *prima facie* appears that the petitioners have approached the Court with unclean hands, nonetheless, concealing material facts, for instance, the anticipatory/transit bail application so moved; that the record shows that upon receipt of the *parivad* on 28.10.2025, a preliminary enquiry was conducted by the Investigating Officer, including examination of documents and electronic material, and only thereafter was the FIR registered; that notices issued to the petitioners on 23.11.2025 and 29.11.2025 elicited *prima facie* unsatisfactory replies, thereby negating any violation of the mandate of **Arnesh Kumar (supra)** or due process; that the material further reflects allegations of diversion of funds from the inception of the transaction, creation of data with accelerated charges, execution of an additional agreement shifting jurisdiction from Mumbai to Udaipur, and references to past antecedents and insolvency-related proceedings indicating financial distress of the petitioners' firm, all of which form part of the investigative record

and cannot be ignored at this stage. Moreover, the controversy in the present case arises out of an employer–employee relationship, and not as a counterblast to the complaint/FIR made registered by the petitioners, nevertheless, at this stage several disputed and doubtful factual aspects have surfaced, the determination of which necessarily requires a thorough investigation by the competent authority, in accordance with law.

33. In view of the foregoing discussion, this Court is of the considered opinion that the impugned FIR discloses *prima facie* commission of cognizable offences and warrants a full-fledged investigation. No ground is made out for invocation of the inherent powers of this Court under Section 528 of BNSS.

34. Accordingly, the present petitions are dismissed, at the threshold. Interim protection, if any granted, shall stand dismissed/vacated in view of the dismissal of the present petitions. Pending applications, if any, stand disposed of.

35. A copy of this judgment be placed in the connected petition.

(SAMEER JAIN), J

Preeti Asopa