

High Court seems to have adopted a strictly hypertechnical approach and sieved the complaint through a colander of finest gauzes for testing the ingredients under Section 415 IPC.

“9. Criminal prosecution cannot be thwarted at the initial stage merely because civil proceedings are also pending. After referring to judgments in **State of Haryana vs. Bhajan Lal 1992 Supp (1) SCC 335** and **Rajesh Bajaj v. State NCT of Delhi**(supra) this Court in **Trisuns Chemical Industry vs. Rajesh Agarwal, (1999) 8 SCC 686** held: (SCC p. 690, paras 7-8)

“7. Time and again this Court has been pointing out that quashing of FIR or a complaint in exercise of the inherent powers of the High Court should be limited to very extreme exceptions (vide **State of Haryana v. Bhajan Lal**(supra) and **Rajesh Bajaj vs. State NCT of Delhi**,(supra)).

8. In the last referred case this Court also pointed out that merely because an act has a civil profile is not sufficient to denude it of its criminal outfit. We quote the following observations: (SCC p. 263, para 10)

‘10. It may be that the facts narrated in the present complaint would as well reveal a commercial transaction or money transaction. But that is hardly a reason for holding that the offence of cheating would elude from such a transaction. In fact, many a cheatings were committed in the course of commercial and also money transactions.’

After referring to various decisions it was finally concluded as under:

“17. In view of the preponderance of authorities to the contrary, we are satisfied that the High Court was not justified in quashing the proceedings initiated by the appellant against the respondents. We are also not impressed by the argument that as the civil suit was pending in the High Court, the Magistrate was not justified to proceed with the criminal case either in law or on the basis of propriety. Criminal cases have to be proceeded with in accordance with the procedure as prescribed under the Code of Criminal Procedure and the pendency of a civil action in a different court even though higher in status and authority, cannot be made a basis for quashing of the proceedings.”

Kamladevi Agarwal vs. State of West Bengal and others, (2002) 1 SCC 555