



## Can a Civil and Criminal case/remedy co-exist?

### Analysis in the light of **S.N. Vijayalakshmi & Others vs State of Karnataka & Another** [2025 INSC 917]

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#### Introduction

This Supreme Court judgment in *S.N. Vijayalakshmi & Ors. v. State of Karnataka & Ors.* (2025) discusses the intersection of civil disputes and criminal proceedings in property transactions, particularly focusing on Sections 406, 420, and 120B of the Indian Penal Code. The Court's reasoning unpacks the conceptual boundaries between criminal breach of trust, cheating, and mere breach of contract, providing clarity for future litigation and scholarly debate.

#### The Boundary Between Civil and Criminal Liability in Property Transactions

The *S.N. Vijayalakshmi* judgment addresses a recurring problem in Indian jurisprudence that whether the allegations arising from property agreements, particularly those tainted by subsequent non-performance, can justify criminal prosecution alongside civil remedies. The Supreme Court examined the factual matrix of a protracted property dispute in Bangalore, characterized by multiple civil actions and criminal proceedings stemming from an Agreement to Sell (ATS), cancellation of General Power of Attorney (GPA), and subsequent transfer of property.

#### Charges and Legal Framework

The offences alleged in the FIR included criminal breach of trust<sup>1</sup>, cheating<sup>2</sup>, and criminal conspiracy<sup>3</sup>, among others. The Court reproduced these provisions and emphasized their essential ingredients:

- Section 406 of IPC requires entrustment and dishonest misappropriation or conversion. The property must be entrusted to the accused, who then dishonestly misappropriates it.
- Section 420 of IPC involves cheating and dishonest inducement leading to delivery of property or alteration of a valuable security.
- Section 415 of IPC, definition of Cheating, distinguishes between dishonest inducement and mere failure to fulfil a promise.

#### Court's Analysis and Key Findings

##### i. Entrustment Not Established:

The Court found that the accused, being the actual owners of the property, were never entrusted with it by the complainant. The ATS and GPA executed were mechanisms for sale, not entrustment. 'Entrustment' as required under Section 405/406 IPC was, therefore, absent.

##### ii. Absence of Cheating at Inception:

Cheating under Section 415/420 IPC is attracted only if there is dishonest inducement at inception. The Court scrutinized the record and declared that there was no proof the accused acted with a dishonest intention when executing the ATS. Rather, the dispute concerned subsequent non-performance is a matter for civil courts, not criminal prosecution.

<sup>1</sup> Section 406 IPC

<sup>2</sup> Section 420 IPC

<sup>3</sup> Section 120B IPC



### iii. **Civil Dispute Cloaked as Criminal Case:**

The Hon'ble Court, while relying upon P Swaroopa Rani vs M Hari Narayana<sup>4</sup> and and Syed Aksari Hadi Ali Augustine Imam vs State (Delhi Admn.)<sup>5</sup>, observed that if the element of criminality is present, a civil case can co-exist with a criminal case on the same facts. The fact that a civil remedy has already been availed of by a complainant, *ipso facto*, is not sufficient ground to quash an FIR. Further, the Hon'ble Court while applying precedents, including Paramjeet Batra vs State of Uttarakhand<sup>6</sup> and Usha Chakraborty v. State of West Bengal<sup>7</sup>, the Supreme Court reiterated that **overlapping civil and criminal proceedings are permissible only where a clear element of criminality stands out**. In this case, the element of criminality was missing, thus making the FIR liable to be quashed to prevent abuse of process.

### **Impact and Precedential Value**

The judgment confirms two pillars of judicial review of criminal proceedings arising from property transactions:

- i. **Simultaneous Proceedings:** While both civil and criminal proceedings may coexist, courts must scrutinize whether the criminal complaint genuinely reveals criminal intent or is merely an extension of a civil dispute.
- ii. **Abuse Prevention:** The Supreme Court's approach prevents malicious prosecution for breach of contract under the guise of criminal offences, reinforcing the boundary between civil and criminal liability.

### **Implications for Property Law and Criminal Jurisprudence**

This decision will serve as a safeguard for litigants embroiled in property transactions, protecting them from vexatious criminal complaints where essential criminal elements are lacking. It further clarifies the judicial standard for quashing FIRs at the intersection of equity, contract law, and criminal law.

### **Conclusion**

In S.N. Vijayalakshmi & Ors. v. State of Karnataka & Ors., the Supreme Court reasserts that criminal proceedings should not be allowed to proceed where the allegations only raise civil issues, absent the foundational ingredients required under criminal statutes. The judgment thus fortifies the principle that criminal prosecutions must be rooted in clear, demonstrable criminal intent, rather than serving as tools for civil enforcement or harassment however, the overlapping civil and criminal proceedings are permissible where a clear element of criminality stands out.

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<sup>4</sup> (2008) 5 SCC 765

<sup>5</sup> (2009) 5 SCC 528

<sup>6</sup> (2013) 11 SCC 673

<sup>7</sup> (2023) 15 SCC 135