

[2022 LiveLaw \(SC\) 281](#)

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
SANJIV KHANNA; BELA M. TRIVEDI, JJ.

MARCH 07, 2022

CRIMINAL APPEAL NO. OF 2022 (ARISING OUT OF SLP (Crl.) NO.783 OF 2020)
NEETU SINGH & ORS. VERSUS STATE OF U.P.

Indian Penal Code, 1860; Sections 403, 415 - Failure to pay rent may have civil consequences, but is not a penal offence under the Indian Penal Code.

Summary: Appeal against Allahabad High Court order that refused to quash FIR registered against a tenant under Section 415, 403 IPC - Allowed - No criminal offence is made out, even if we accept the factual assertions made in the complaint, which was registered as the First Information Report.

(Arising out of impugned final judgment and order dated 22-11-2019 in MB No. 9718/2019 passed by the High Court of Judicature at Allahabad, Lucknow Bench)

For Petitioner(s) Mr. Ravi chandra, Adv. Mr. Kr. Sushobhan, Adv. Mr. Dinesh S. Badiar, Adv. Mr. V. K. Anand, Adv. Ms. Kajol Singh, Adv. Mr. Ravi Kumar Tomar, AOR

For Respondent(s) Mr. V K Shukla, Sr. Adv. Mr. Adarsh Upadhyay, AOR Mr. Amol Chitravanshi, Adv. Mr. Manish Chahar Adv. Ms. Shashi Kiran, AOR

ORDER

Leave granted.

Heard the learned counsel for the parties.

We are of the opinion that no criminal offence is made out, even if we accept the factual assertions made in the complaint, which was registered as the First Information Report. Failure to pay rent may have civil consequences, but is not a penal offence under the Indian Penal Code, 1860 (for short, "IPC"). Mandatory legal requirements for the offence of cheating under Section 415 and that of misappropriation under Section 403 IPC are missing.

In view of the aforesaid position, the First Information Report is quashed.

On the question being put to the counsel for the appellants, it has been stated that the appellants have vacated the property. Learned counsel for the respondent No.3 disputes this statement, and states that the appellants have not handed over physical vacant possession of the property to respondent No.3.

Be that as it may, in view of the statement made by the learned counsel for the appellants, respondent No.3 is at liberty to enter into possession of the property without violating any law.

Learned counsel for respondent No.3 states that there are huge arrears of rent which have to be recovered. It will be open to respondent No.3 to take recourse to such civil remedy as is available to him in law.

Recording the above, the impugned order is set aside and the appeal is allowed quashing the First Information Report. The question when the appellant vacated the property and arrears of rent, etc. are left open to be decided in civil proceedings.

All pending applications are also disposed of.