

Failure to repay a loan is not a criminal offence unless there is fraudulent intent: SC

Surabhi Mumbai | Updated on March 01, 2019 Published on March 01, 2019



In a significant ruling, the Supreme Court has held that failure to repay a loan is not a criminal offence unless there is a fraudulent intent.

The ruling comes in the case of Satishchandra Ratanlal Shah versus the State of Gujarat.

“The mere inability of the appellant to return the loan amount cannot give rise to a criminal prosecution for cheating unless fraudulent or dishonest intention is shown right at the beginning of the transaction, as it is this *mens rea* which is the crux of the offence,” held a Bench comprising Justice NV Ramana and Justice Mohan M Shantanagoudar.

It further held that even if all the facts in the complaint and material are taken at their face value, no such dishonest representation or inducement could be found or inferred.

The case pertains to an appeal against the impugned judgment of the Gujarat High Court that had dismissed the appellant’s application for a quashing of the order framing charges in a criminal case.

The appellant had taken a loan of ₹27 lakh in January 2008 from the complainant, a director in a money lending firm, which he failed to repay. Following this, the complainant had alleged that he was threatened by the appellant when he approached him on the issue. He later filed a civil case, in 2011, to recover the money and followed it up with a criminal complaint and FIR in 2012.

In its ruling, the apex court noted that the respondent knew the appellant and the circumstances before giving the loan. He had also filed a civil suit for recovery of the money.

“The law clearly recognises a difference between simple payment or investment of money and entrustment of money or property. Mere breach of a promise, agreement or contract does not, *ipso facto*, constitute the offence of criminal breach of trust contained in Section 405, IPC, without there being a clear case of entrustment,” it held in its recent ruling.

The bench quashed the proceedings, setting aside the High Court order.

Published on March 01, 2019



Save 61% on BusinessLine e-Paper
Now at just ₹ ~~2,100~~ ₹ 799* per year [SIGN UP](#)

[Supreme Court of India](#)

[fraud](#)

[personal loans](#)

0

COMMENTS



Next Story

Exim Bank eyes 10% growth in business at ₹ 1 lakh cr in FY19

You May Like

Why Are Professionals Moving Towards Blockchain in 2019?

Sponsored Links by Taboola

upGrad & IIT-B

Supriya Got a 70% Salary Hike. Pursue upGrad's PG Certification in Big Data. Apply Now!

UpGrad & BITS Pilani

Pre-Launching Purva Somerset House at Guindy, The Most Prime Location in Chennai

Puravankara Somerset

14 Facts About The Navy Seals

Hale 'N' Hearty

