



2026:DHC:8843



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: September 09, 2026

% *Pronounced on October, 07, 2026*

CNR No. DLHC010041782022

+ **CRL.M.C. 343/2022, CRL.M.As. 1469/2022 & 10821/2026**

MANEESH MOUDGIL AND ANOTHERPetitioners

Through: Ms. Rebecca Mammen John, Sr.
Adv. with Mr. Ravinder Kumar
Yadav, Mr. Shantanu Singh, Mr.
Ravi Sehgal, Mr. Pravir Singh, Mr.
Aditya S. Nair, and Ms. Ishika Jain,
Advocates

Versus

THE STATE N.C.T. OF DELHI AND ANOTHER ..Respondents

Through: Mr. Satish Kumar, APP for State
with Ms. Upasna Bakshi, Ms. Divya
Bakshi and Mr. Gaurav Kr. Singh,
Advs. with SI Ramavatar, PS.:
Vasant Vihar
Mr. N. Hariharan, Sr. Adv. with Mr.
Saleem Ahmed, Mr. Arvind Pandey,
Ms. Punya Rekha Angara, Mr.
Amartya, Mr. Aman Akhtar, Ms.
Vasundhara Rat Tyagi, Mr. Arjan
Singh Manola and Mr. Apoorv
Kumar, Advs. for R2

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

1. This Court is called upon to adjudicate the present petition under *Section 482* of the Code of Criminal Procedure, 1973¹, wherein the petitioners are seeking quashing of FIR No.266/2021 dated 03.12.2021,

¹ Hereinafter "**CrPC**"



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registered at PS.: Vasant Vihar, New Delhi under Sections 420/406/467/471/120-B of the Indian Penal Code, 1860² and all consequential proceedings arising therefrom.

FACTUAL BACKGROUND:

2. As per FIR, the parents of the respondent no.2/ complainant³ and petitioner no.1 were residing at house No.33, Block-B, Surya Enclave, New Multan Nagar, Rohtak Road, New Delhi-110 056⁴, which consisted of ground floor and first floor built up on a plot measuring 225.94 sqm. The said property was purchased from the funds/ monies received from sale of ancestral property and combined savings of their parents. The complainant resided therein until her marriage in the year 1998, whereafter though the mother of the complainant and petitioner no.1 passed away on 20.01.2009, however, in the years that followed, the petitioner no.1 got himself allotted an official accommodation in Delhi and relocated his father Dr. Dev Kumar therein on medical grounds. Soon thereafter, Dr. Dev Kumar suffered a massive stroke, first in a long series of health setbacks that would eventually include catheterization surgeries, chronic hyponatremia, and prolonged dependence on medication. Taking advantage of his father's deteriorating health, the petitioner no.1 took control of his bank accounts and financial affairs and persuaded him to sell Multan Nagar property on 20.11.2017 for a sale consideration of Rs.14 crores. Since the proceeds thereof were handed over to the petitioner no.1, he proposed to reinvest it into another property, a proposal which was acceptable to both Dr. Dev Kumar as also the complainant, however, on the condition that the new

² Hereinafter "*IPC*"

³ Hereinafter "*complainant*"

⁴ Hereinafter "*Multan Nagar property*"



property be registered either solely in their father's name or jointly among all three of them.

3. Thereafter, the petitioner no.1 identified a property being Ground Floor and Basement of House no.53, Paschimi Marg, Vasant Vihar, New Delhi-110 057⁵ and on 17.10.2018 got registered the Ground Floor therein (registration no.5177, Book No.1, Volume No.830, pages 127-143) from M/s. Heritage Holiday Private Limited, jointly in the names of Dr. Dev Kumar, petitioner no.2 (wife of petitioner no.1) and himself thereby substituting the complainant's name with that of the petitioner no.2.

4. Further, on 26.03.2019, petitioner no.1 got executed an Agreement to Sell for the Basement of the Vasant Vihar property from M/s. Heritage Holiday Private Limited, once again in the joint names of Dr. Dev Kumar, petitioner no.2 and himself as also got a General Power of Attorney executed in favour of the petitioner no.2 alone on 12.04.2019 from M/s. Heritage Holiday Private Limited. Execution of both the aforesaid documents is alleged to have been concealed not only from the complainant but also from Dr. Dev Kumar.

5. Also, Dr. Dev Kumar's health continued to decline sharply through 2018 and into 2019, when he underwent a rectal examination and further surgery for chronic constipation. By April-May 2019, his condition had become severe with episodes of memory loss, disorientation, hallucinations, and volatile mood swings. As such, the petitioner no.1 urged the complainant to stop taking her father's calls, even as he tried to reach out to her as often as fifteen to thirty times a day.

⁵ Hereinafter "**Vasant Vihar property**"



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6. Thereafter, on 30.10.2019, Dr. Dev Kumar was admitted to Hospital, but despite diagnosis of PS-4 (Stage IV) cancer and his fragile condition, the petitioner no.1 got him discharged from the Hospital in the evening of 03.11.2019 and took him to the office of the Sub-Registrar on 05.11.2019 at approximately 01:09 PM, and dishonestly and fraudulently got registered a Will in his name. At that time, and given his medication and diminished mental capacity, the said Dr. Dev Kumar was in no mental or physical state to understand/ comprehend the details.

7. Soon thereafter, owing to his deteriorating medical condition Dr. Dev Kumar passed away on 13.12.2019. During the subsequent months, the complainant noticed the petitioners gradually withdrawing from her as also from family gatherings. Eventually, the complainant heard rumours from her relatives that the petitioners were describing themselves as the sole heirs to Dr. Dev Kumar's estate and as per the forged Will claimed that 1/3rd share of Dr. Dev Kumar in the Vasant Vihar property had passed onto the petitioner no.1 and the petitioner no.2 also separately held 1/3rd share of her own.

8. As such, the complainant issued a public cautionary notice in a newspaper on 21.07.2020 asserting her rights in the property and warning the public against any dealings *qua* the said property as also filed corresponding objections with the Sub-Registrar. On 18.08.2020, she also sent a Legal Notice to the petitioners. In response thereto, vide their reply dated 03.09.2020, though the petitioners acknowledged that the Ground Floor and Basement of the Vasant Vihar property had been purchased jointly by Dr. Dev Kumar and both the petitioners against loan, however,



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made no mention at all of the Agreement to Sell and/ or General Power of Attorney concerning the Basement thereof.

9. The aforesaid led the complainant to file a written complaint with the SHO of PS.: Vasant Vihar on 17.01.2021, however, since no FIR was registered earlier, it was only registered after she filed an application under *Section 156(3)* of the CrPC before the learned Chief Metropolitan Magistrate on 27.11.2021.

SUBMISSIONS ON BEHALF OF PETITIONERS:

10. The petitioners filed the present petition on 17.01.2022. The learned senior counsel for petitioners submitted that the present FIR is liable to be quashed at the very outset on the following grounds:-

10.1 That the dispute herein pertains to a family property *inter se* siblings which is civil in nature and is wrongly given a criminal colour to coerce and corner the petitioners, especially in view of the Will dated 05.11.2019.

10.2 That no offence(s) of forgery and/ or fraud and/ or misrepresentation regarding execution of the registered Sale Deed dated 17.10.2018 qua the Ground Floor of the Vasant Vihar property, the Agreement to Sell dated 26.03.2019 qua the Basement of the said Vasant Vihar property and the registered Will dated 05.11.2019 on the premise that Dr. Dev Kumar was not in a mental state to understand and comprehend any of the said documents is/ are made out.

10.3 That more so, whence it is apparent from the record that the said Dr. Dev Kumar had been diagnosed with Stage PS-IV Cancer only in November 2019 and there is no indication/ document suggesting that he was incapacitated and/ or was ever suffering from any mental ailment, prior or subsequently thereto. The medical records reflect a purely physical



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ailment, with no inference of unsoundness of mind. It was only on 09.09.2019, during the WhatsApp chats between the complainant and the petitioner no.2, the petitioner no.2 informed the complainant that the said Dr. Dev Kumar was suffering from “*urinary problem*”. There is also no document on record suggesting that Dr. Dev Kumar was suffering from Stage PS-IV Cancer prior to that period as there was no diagnosis qua that.

10.4 That Dr. Dev Kumar physically went for registration of his Will on 05.11.2019 to the Sub-Registrar’s office. In fact, during interrogation, the Sub-Registrar has clearly stated that the Will has been duly registered as per The Registration Act, 1908.

10.5 That the husband of the complainant, a lawyer by profession and his two associates were aware of various registrations that were taking place as also about the Sale Deed, Agreement to Sell and General Power of Attorney *qua* the Vasant Vihar property at all times. The same is evident from various e-mails and draft copies of the aforesaid documents, as also from the WhatsApp chats dated 17.10.2018, 06.04.2019, 13.05.2019 and 14.05.2019 *inter se* the petitioner no.2 and the complainant reflecting that the complainant had knowledge about the said Sale Deed, Agreement to Sell and also the General Power of Attorney.

10.6 That prior to execution of the Agreement to Sell, the petitioners and Dr. Dev Kumar collectively made an application for seeking loan from HDFC Bank, after signing all documents, and the petitioner no.1 is solely paying the EMI towards that till date.



10.7 Lastly, as per *Prem Singh & Ors. vs. Birbal & Ors.*⁶; *Partap Singh (Dead) through Legal Representatives & Anr.*⁷ and *Mahant Bhagwan Bhagwat vs. GN Bhagat & Ors.*⁸ passed by the Hon'ble Supreme Court, there is a presumption that a registered document is validly executed and the onus to prove that the same is forged lies on the person alleging forgery and not otherwise. It would, thus, not be proper to rely upon oral evidence to rebut the statutory presumption as the credibility of oral evidence vis-à-vis documentary evidence is much lower. Thus, the complainant cannot seek to shift the onus thereof by initiating the present criminal proceedings.

10.8 Thus, the present FIR deserves to be quashed.

SUBMISSIONS ON BEHALF OF COMPLAINANT:

11. *Per contra*, learned senior counsel for the complainant made the following submissions:-

11.1 That the FIR as also chargesheet along with oral, documentary and digital evidence collected during investigation from various Hospitals, government offices and individual witnesses disclose the commission of conspiracy, forgery and misrepresentation, which offences are cognizable in nature. They raise disputed questions of facts which require a trial.

11.2 That both parents of the petitioner no.1 and the complainant during their lifetime expressed that both their children are equally entitled to their estate upon their death to everyone including the petitioners.

11.3 That Dr. Dev Kumar suffered from chronic UTI since the year 2001 and underwent many surgeries. He was also on heavy medications that affected his mental abilities. He also suffered from chronic hyponatremia

⁶ (2006) 5 SCC 353

⁷ (2020) 11 SCC 242

⁸ (1972) 1 SCC OnLine SC 2265



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and mental issues such as apprehensions, hallucinations, etc. and was unable to read, understand and comprehend documents. Since September/October, 2019, he had multiple lytic destructions (fractures) in his ribs and backbone. Being a patient of Stage PS-IV Cancer, he was unable to move without external support. Thus, at the time of execution and registration of Will dated 05.11.2019, he was in a compromised physical and mental state.

11.4 That the petitioners' *mala fidely* had Dr. Dev Kumar discharged from the Hospital on 03.11.2019 and took him to the Sub-Registrar's office on 05.11.2019 for execution of his Will to simply oust the complainant from receiving a share in her father's estate. As per law laid down in ***Leela & Ors. vs. Muruganantham & Ors.***⁹ and ***Dhani Ram Thr. LRs & Ors. vs Shiv Singh***¹⁰, mere registration of a Will would not attach a stamp of validity and/ or it cannot be presumed to be valid only since it is registered.

11.5 That the complainant's husband was only privy to blank documents, which though were pertaining to registration of the property.

11.6 That the WhatsApp chats *inter se* the complainant and petitioner no.1 dated 05.11.2019, which is forming part of the chargesheet, do not mention anything about visit of Dr. Dev Kumar to the Sub-Registrar's office on that day.

11.7 That as per the evidence placed on record, the petitioner no.1 himself created the Will of Dr. Dev Kumar and sent it via e-mail on 05.11.2019 to another accused Mr. Varun Chugh. Despite the other accused Mr. Sudeep Bakshi knowing about the mental and physical disability of Dr. Dev

⁹ Civil Appeal No. 7578/2023

¹⁰ Civil Appeal No.8172/2009



Kumar, colluded with the petitioners, stood witness to the Will and got it registered.

11.8 Lastly, as per *C.S. Prasad vs. Satyakumar & Ors.*¹¹; *Muskan vs. Ishaan Khan (Sataniya) & Ors.*¹² and *Veena Mittal vs. State of Uttar Pradesh & Ors.*¹³ passed by the Hon'ble Supreme Court, it is trite that at the stage of adjudication of a petition like the present, the Court is not to conduct a mini-trial.

11.9 That the materials placed on record require a trial before the learned Trial Court.

SUBMISSIONS ON BEHALF OF STATE:

12. Learned APP supporting the case of the complainant submitted that since the present matter involves disputed questions of facts requiring proper appreciation of evidence and since they are beyond the scope of adjudication in the present petition, the present petition is liable to be dismissed.

FINDINGS AND ANALYSIS:

13. This Court has heard learned senior counsels for the petitioners and complainant as also the learned APP and gone through the materials placed on record as also the judgments cited at Bar.

14. *Interestingly*, at the outset, it is to be noted that the petitioners have approached this Court by way of the present petition barely within 45 days of registration of the present FIR. As such, the grounds raised by the petitioners in the present petition are primarily pertaining to contents thereof. It is also relevant to note that the chargesheet has also been filed

¹¹ CrI. Appeal No.140/2026

¹² 2025 INSC 1287

¹³ 2022 Live Law (SC) 110



before the learned Trial Court thereafter during the pendency of the present petition.

15. It is trite that while dealing with a petition like the present one wherein someone like the petitioners herein seek quashing of an FIR and the investigation pending therein, this Court has to be mindful of the fact that the inherent jurisdiction under *Section 482* of the CrPC is to be exercised sparingly, with considerable circumspection, caution and care, and is not to be invoked as a matter of course. Recourse thereto by someone like the petitioners herein can only be taken where continuation of the criminal proceedings would itself amount to an abuse of the process of law, or where the allegations contained in the FIR, even if accepted in their entirety, do not *prima facie* disclose commission of a cognizable offence.

16. It is also trite that while dealing with such a petition wherein someone like the petitioners herein seek quashing of the FIR and other subsequent proceedings arising therefrom, this Court is not to conduct a mini-trial by appreciating the evidence, assessing probabilities, and/ or weighing the credibility of witnesses and documents nor to venture into examination of the disputed questions of fact as such an exercise squarely falls within the domain of the learned trial Court.

17. This Court, finds able support in the celebrated judgment passed by the Hon'ble Supreme Court in ***State of Haryana v. Bhajan Lal***¹⁴, wherein the governing principles applicable to quashing of an FIR has been specified after analysing the same in detail, which, for ease of reference are reproduced as under:-

¹⁴ 1992 Supp (1) SCC 335



“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein **such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice**, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) **Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.**

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) **Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever**



reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) **Where a criminal proceeding is manifestly attended with mala fide and/ or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.**

103. We also give a note of caution to the effect that **the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice. ...**

[Emphasis Supplied]

18. In fact, thereafter also the Hon'ble Supreme Court in **Rajiv Thapar vs. Madan Lal Kapoor**¹⁵ has, once again, while dealing with the very same issue of quashing of an FIR, emphasized and laid down certain additional steps for a High Court to consider in determining the veracity of a prayer for quashing of proceedings. These steps rest on the understanding that a High Court is not barred from looking at material produced by the accused, provided it is of sterling and impeccable quality to persuade a reasonable person to reject, dismiss and condemn the allegations levelled as false. It is

¹⁵ (2013) 3 SCC 330



only then that the High Court's judicial conscience would be persuaded to use its inherent powers under Section 482 of the CrPC to quash the proceedings, preventing abuse of the process and securing the ends of justice. The relevant extracts thereof are reproduced as under:-

"30. Based on the factors canvassed in the foregoing paragraphs, we would delineate the following steps to determine the veracity of a prayer for quashment raised by an accused by invoking the power vested in the High Court under Section 482 CrPC:

30.1. Step one: whether the material relied upon by the accused is sound, reasonable, and indubitable i.e. the material is of sterling and impeccable quality?

30.2. Step two: whether the material relied upon by the accused would rule out the assertions contained in the charges levelled against the accused i.e. the material is sufficient to reject and overrule the factual assertions contained in the complaint i.e. the material is such as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false?

30.3. Step three: whether the material relied upon by the accused has not been refuted by the prosecution/complainant; and/ or the material is such that it cannot be justifiably refuted by the prosecution/ complainant?

30.4. Step four: whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

30.5. If the answer to all the steps is in the affirmative, the judicial conscience of the High Court should persuade it to quash such criminal proceedings in exercise of power vested in it under Section 482 CrPC. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as proceedings arising therefrom) specially when it is clear that the same would not conclude in the conviction of the accused. ..."

[Emphasis Supplied]



19. Also, in continuance thereof, this Court finds that the Hon'ble Supreme Court has thence in a recent decision in ***CBI vs Aryan Singh and Ors.***¹⁶, observed that at the stage of exercising inherent powers under Section 482 of the CrPC, the Court is not required to conduct a mini-trial as it is only required to ascertain if there exists a *prima facie* case and the material collected during the course of the investigation, which warranted the accused to be tried. The relevant extract thereof is reproduced as under:-

“6. From the impugned common judgment and order [Aryan Singh v. CBI, 2022 SCC OnLine P&H 4158] passed by the High Court, it appears that the High Court has dealt with the proceedings before it, as if, the High Court was conducting a mini trial and/or the High Court was considering the applications against the judgment and order passed by the learned trial court on conclusion of trial. As per the cardinal principle of law, at the stage of discharge and/or quashing of the criminal proceedings, while exercising the powers under Section 482CrPC, the Court is not required to conduct the mini trial. The High Court in the common impugned judgment and order has observed that the charges against the accused are not proved. This is not the stage where the prosecution/ investigating agency is/are required to prove the charges. The charges are required to be proved during the trial on the basis of the evidence led by the prosecution/investigating agency.

7. Therefore, the High Court has materially erred in going in detail in the allegations and the material collected during the course of the investigation against the accused, at this stage. At the stage of discharge and/ or while exercising the powers under Section 482CrPC, the Court has a very limited jurisdiction and is required to consider “whether any

¹⁶ (2023) 18 SCC 399



sufficient material is available to proceed further against the accused for which the accused is required to be tried or not”.

8. One another reason pointed by the High Court is that the initiation of the criminal proceedings/ proceedings is malicious. At this stage, it is required to be noted that the investigation was handed over to the CBI pursuant to the directions issued by the High Court. That thereafter, on conclusion of the investigation, the accused persons have been charge-sheeted. Therefore, **the High Court has erred in observing at this stage that the initiation of the criminal proceedings/ proceedings is malicious. Whether the criminal proceedings was/were malicious or not, is not required to be considered at this stage. The same is required to be considered at the conclusion of the trial. In any case, at this stage, what is required to be considered is a prima facie case and the material collected during the course of the investigation, which warranted the accused to be tried. ...”**

[Emphasis Supplied]

20. Taking the aforesaid settled position of law, the moot issue arising herein for determination is “Whether the factual matrix involved, coupled with the case set up by the petitioners are themselves sufficient for this Court to proceed with quashing of the FIR and investigation pending therein?”

21. Adverting to the facts involved herein, it is an admitted fact that much water has flown since filing of the present petition, more so, as not only the charges have been framed but also prosecution evidence is being led therein before the learned Trial Court after conclusion of investigation.

22. Be that as it may, in a nutshell, the case herein as reflected from a bare perusal of the FIR is that the deceased: one Dr. Dev Kumar, who is survived by his son: the petitioner no.1, his daughter-in-law: the petitioner no.2 and his married daughter: the complainant, was allegedly not in the



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best of his physical and medical condition since long, and had also been diagnosed with Stage PS-IV Cancer in the year 2019, and it was on and around the same period that various documents like the Sale Deed dated 17.10.2018, the Agreement to Sell dated 26.03.2019, the General Power of Attorney dated 12.04.2019 and also his Will dated 05.11.2019 were, allegedly, executed.

23. In essence, the FIR raises concerns over the allegations of alleged cheating, forgery, misrepresentation and criminal breach of trust against the petitioners, which, is taken on their face value and accepted in the said form as they are, are in itself sufficient for this Court to hold that there is indeed a probability of constitution of the said offences as alleged, particularly, since they are neither absurd nor inherently improbable. As such, it cannot be said that there are no grounds for proceeding against the petitioners in the present FIR.

24. Even otherwise, the contents thereof have been followed up by investigations, the statements of the numerous witnesses, and the filing of the charge sheet, to which the petitioners have not made any assertions and/or raised any grounds in challenge thereto, and what has been addressed are lengthy final arguments and written synopsis therewith. In any event, this Court is proceeding to consider the oral assertions based on the voluminous documents filed, *albeit* within the scope of *Section 482 CrPC*.

25. The dispute sought to be raised by the petitioners on the basis of the assertions made and the grounds raised herein, coupled with the arguments addressed by learned senior counsel for the petitioners in support thereof, are all primarily based on documentary evidence, and whence there is a *prima facie* basis for proceeding, the same has little significance. Even



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otherwise, the documents sought to be relied upon by the petitioners are yet to face the test of trial and going by their very nature, they can only be proven through an expert opinion of qualified professionals, largely Doctors.

26. As a matter of fact, learned senior counsel for the parties have extensively placed reliance upon plethora of documents pertaining to the *medical reports(s)/ reply(ies)/ opinion(s) of and qua Dr. Dev Kumar health issued by Dr. Kaushal Kalra; Dr./ Prof. Anup Kumar; Dr. Manushree Gupta; Dr. Neera Chaudhary; Medical Superintendent Fortis Hospital; Brigadier In-Charge Administration R & R Hospital; medical history of Dr. Dev Kumar; Dr. Kaushal Kalra; and Dr. Puneet Dwivedi*, to name a few. All these documents, *admittedly*, have been filed only before this Court subsequently, and from time to time during the pendency of the present petition, and which are, *no doubt*, yet to stand the test of trial.

27. Similarly, learned senior counsel for the parties have also extensively placed reliance upon another set of documents being the correspondences exchanges during the said time, including *various e-mails exchanged from time to time between the family members of the petitioners and the complainant; WhatsApp Message(s) dated 17.10.2018 sent by the Petitioner No.2 to the Complainant; dated 24.02.2019 sent by Petitioner No.2 to the Complainant; dated 06.03.2019 sent by Complainant to Petitioner No.2; dated 15.04.2019 sent by Complainant to Petitioner No.2*, to name a few. Once again, all these documents, *admittedly*, have only been filed before this Court subsequently, and from time to time during the pendency of the present petition, and which are, *no doubt*, yet to stand the test of trial.



28. Even otherwise, the petitioners have not been able to *prima facie* show any material(s) which is/ are of such sterling and impeccable quality that would lead this Court to a conclusion that continuation of the present criminal proceedings would be an abuse of the process of law. In fact, the rival versions put forth by learned senior counsel for both the sides, wherein disputed questions of facts have been raised involving allegations of cheating, forgery, misrepresentation and criminal breach of trust, are cognizable offences, the present is a fit case for proceeding with the trial.

29. Lastly, though the present FIR is arising out a family discord *inter se* the two siblings about the estate left behind by their late father, however, as held by the Hon'ble Supreme Court in ***Amit Kapoor vs. Ramesh Chander***¹⁷ that where allegations give rise to a civil claim and also amount to an offence, merely because a civil claim is maintainable, does not mean that a criminal complaint cannot be maintained. Therefore, there is no absolute bar on filing of a criminal complaint and/ or proceeding with registration of the FIR by the complainant against the petitioners.

30. In light of the aforesaid factors, in the considered opinion of this Court, based on the factual matrix involved, as also what has followed thereon, and based on the aforesaid findings and analysis, the petitioners have not been able to make out a case for quashing of the present FIR and the investigation pending thereunder.

31. Accordingly, the present petition, alongwith the pending applications, is dismissed, with no order as to costs.

¹⁷ (2012) 9 SCC 460



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32. Needless to say, observations, if any, on the merits of the matter are for the limited purpose of adjudication of the present petition and shall have no bearing on the overall proceedings involved.

33. A copy of this judgment be sent to the concerned Trial Court for information.

SAURABH BANERJEE, J.

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bh/DA