



2026:DHC:1952



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

Reserved on: February 11, 2026

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Pronounced on: March 10, 2026

+ **W.P.(CRL) 1514/2022, CRL.M.A. 13231/2022**

RADHA RAMAN SHARMA

.....Petitioner

Through: Mr. N.K. Kantawala, Mr. Abhinav Sharma, Ms. Avsi Malil, Mr. A.M. Nair and Mr. Ujwal Jain, Advs.

Versus

STATE & ANR.

.....Respondents

Through: Mr. Rahul Tyagi, ASC for the State with Ms. Priya Rai, Mr. Sangeet Sibou, Mr. Shubham Goyal and Mr. Aniket Kumar Singh, Advs.
Ms. Priyanka Yadav, Mr. Gulshan Kumar, Ms. Vanshika Nagpal, Ms. Subhaga Gera and Ms. Ravina Yadav, Advs. for R-2
SI- Rohit, PS: Uttam Nagar, Delhi

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

1. By virtue of the present petition under *Article 226* and *Article 227* of the Constitution of India read with *Section 482* of the Code of Criminal Procedure, 1973¹, the petitioner seeks, quashing of FIR No.144/2019, dated 07.03.2019 under *Sections 420/ 34* of the Indian Penal Code, 1860², registered with PS.:Uttam Nagar, Delhi and all the consequent proceedings arising therefrom.

¹ Hereinafter as "*Cr.P.C.*"

² Hereinafter as "*IPC*"



2. *Succinctly put*, it is the case of the petitioner that in the year 1996, the petitioner and his brother purchased a property being WZ-A-42, Roop Nagar, Near Nawada Extension (Om Vihar Phase-V), New Delhi-110 059³ *vide* General Power of Attorney, Agreement to Sale and Will dated 19.03.1996⁴ duly executed in their favour and thereafter a residence was constructed thereon and the petitioner had been residing with his family therein.

3. Subsequently in the year 2016, as the respondent no.2 herein became aware of construction on the suit property, the respondent no.2 instituted a Suit bearing no.1742/2016 before learned Additional District Judge (West District), Dwarka Court, New Delhi⁵ seeking a decree of declaration, possession and mandatory injunction *qua* the suit property, claiming himself to be the owner thereof in view of a purported registered Sale Deed dated 09.11.1983.

4. Despite being duly served in the said pending suit, the respondent no.2, after a gap of almost *three years*, lodged a complaint dated 07.03.2019 against the petitioner and three other co-accused which resulted in registration of the present FIR under *Sections 420/ 34* of the IPC. Even after lapse of sufficient time, no charge-sheet has been filed therein till date.

5. Mr. N.K. Kantawala, learned counsel for the petitioner submitted that the allegations in the FIR merely establish a civil dispute between the petitioner and the respondent no.2 as it primarily pertains to ownership/ identification of the suit property, for which the respondent no.2 has

³ Hereinafter as "*suit property*"

⁴ Hereinafter as "*ownership documents*"

⁵ Hereinafter as "*learned Trial Court*"



already instituted a civil proceeding. Reliance is placed upon *State of Haryana vs. Bhajan Lal & Ors.*⁶. In any event, the FIR suffers from serious infirmity as co-accused Mr. Ramesh expired on 24.09.2002 and another co-accused Mr. Charan Dass also expired on 23.12.2003, well before lodging of the complaint or subsequently registration of the present FIR.

6. Lastly, relying upon *Thulia Kali vs. The State of Tamil Nadu*,⁷ *Satpal Singh vs. State of Haryana*⁸, *Jai Prakash Singh vs. State of Bihar*⁹ and *Manoj Kumar Sharma & Ors. vs. State of Chhattisgarh & Anr.*¹⁰, learned counsel submitted that a belated and unexplained lodging of an FIR erodes the vital element of spontaneity, thereby increasing the likelihood of exaggeration and makes such an FIR a creature of an after-thought and such delay strikes at the root of the prosecution's case that raises serious doubts *qua* the genuineness and credibility of the allegations set out in the FIR.

7. *Per contra*, Mr. Rahul Tyagi, learned ASC for the State submitted that the respondent no.2 became aware of the illegal construction on his property in the year 2015 and since then, investigation *qua* verification of the property documents *qua* the suit property of both the parties have been completed and the chain of documents pertaining to the said property have been ascertained. Also the charge-sheet in the present FIR shall be filed shortly and necessary action shall be taken pursuant thereto.

⁶ 1992 AIR 604

⁷ (1972) 3 SCC 393

⁸ (2010) 8 SCC 714

⁹ (2012) 4 SCC 379

¹⁰ (2016) 9 SCC 1



8. Lastly, Ms. Priyanka Yadav, learned counsel for respondent no.2, supporting the submissions of the learned ASC for the State, submitted that a perusal of the present FIR as also in view of the chain of documents collected by the State evince criminal elements which calls for the criminal proceedings to be continued and pursued further.

9. Heard learned counsel for the parties as also the learned ASC for the State and perused all the documents as also the Status Report as well as the judgments cited at bar.

10. As borne out, the dispute herein pertains to the title/ identification of a property, which entails an element of civil nature not arising out of a singular set of documents, and for which the very same parties are already embroiled in a Suit instituted more than *three years* prior to filing of the complaint by the respondent no.2 herein. Moreover, a perusal of the contents of the FIR involved reflect that besides the allegations therein, the only substantive allegation *qua* criminal trespassing also though in view of the forged documents regarding a property, is based on bald averments sans any *prima facie* material in support thereto. Also, *admittedly*, two of the co-accused persons named in the FIR have already left for their heavenly abode much prior to the making of the complaint by the respondent no.2 and/ or registration of the present FIR.

11. The allegations levelled in the FIR are civil in nature, which taken on the face value themselves do not constitute a criminal offence, however, they have been given a colour of criminal offence and there are no ingredients of any cognizable offence therein. The present FIR is more of a retaliatory move by the respondent no.2 after being faced with the civil suit *qua* the very same property.



12. Under such circumstances, subjecting the petitioner to facing criminal prosecution in pursuance to the present FIR would be subjecting him to double jeopardy, and be wholly unjustified.

13. In fact, the law regarding quashing of such FIR has been laid down by the Hon'ble Apex Court in *Binod Kumar vs. State of Bihar*¹¹ while summarizing the principles of quashing complaints and criminal proceedings, as under:-

“ 10...

(i) A complaint can be quashed where the allegations made in 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 the case alleged against the accused.

For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with mala fides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a power legitimate prosecution. This should be used sparingly and with abundant caution.

(iv) The complainant is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the

¹¹ (2014) 10 SCC 663



complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

*(v) A given set of facts may make out : (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceeding are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. **The test is whether the allegations in the complaint disclose a criminal offence or not...***

(Emphasis Supplied)

14. Moreover, to constitute an offence under *Section 420* of the IPC in the present FIR, there has to be dishonest inducement by the petitioner viz. (i) to deliver any property to any person or (ii) to make, alter or destroy wholly or in part a valuable security (or anything signed or sealed and which is capable of being converted into a valuable security). There is nothing of that kind herein.

15. Accordingly, in view of the foregoing, the present petition is allowed and FIR No.144/2019 dated 07.03.2019 under *Sections 420/ 34* of the IPC, registered with PS.: Uttam Nagar, Delhi and all proceedings emanating therefrom is hereby quashed with no order as to costs.

SAURABH BANERJEE, J

MARCH 10, 2026/Ab/AKS