



2026:DHC:1086



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 07th February, 2026
Pronounced on: 10th February, 2026

+ TEST.CAS. 59/2025, I.A. 27378/2025 & I.A. 543/2026

PRADEEP GUPTA

.....Petitioner

Through: Mr. Rajesh Mohan Sinha, Mr. Prateek Mohan Sinha, Ms. Namita Sinha, Ms. Nandini Harsh and Mr. Krishnendu Das, Advs.
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versus

THE STATE & ORS.

.....Respondents

Through: Ms Nitika Bhutani, Adv. for R-1/ GNCTD (Through VC)
Mr. Sumit Bansal, Sr. Adv. with Mr. Udaibir Singh Kochar, Ms. Samvartika Pathak, Ms. Tulna Rampal, Mr. Utsav Garg and Ms. Nikita Gupta, Advs. for R-2
Mob: 9250611261
Ms. Srishty Kaul, Mr. Veerat K. Anand, Mr. Shashank Kumar, Ms. Roopse Pandita and Mr. Hardik Malik, Advs. for R-3
Mob: 9582220426
Email: hardikmalik@cskpartners.in
Ms. Rupali Bandhopadhyaya, ASC with Mr. Abhijeet Kumar, Adv. for Delhi Police, along with Mr. Rahul Lamba,



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S.I. (PS Saket)

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abhijeetkumar.adv@gmail.com**CORAM:****HON'BLE MS. JUSTICE MINI PUSHKARNA****JUDGMENT****MINI PUSHKARNA, J.****I.A. 27378/2025**

1. The present application has been filed under Section 151 of the Code of Civil Procedure, 1908 (“CPC”), on behalf of the Sh. Rahul Lamba, i.e., the Investigating Officer, (“I.O.”), Police Station, Saket, New Delhi, in *FIR No. 311/2025* dated 16th September, 2025, seeking direction for the release of original Will dated 22nd November, 2024 for forensic investigation.
2. The present petition has been filed under Section 276 of the Indian Succession Act, 1925 seeking grant of Letter of Administration in relation to the Will dated 22nd November, 2024 of the Late Sh. Jagdish Pershad Gupta, who expired on 11th January, 2025. The petitioner is the son of the testator, Late Sh. Jagdish Pershad Gupta, while respondent nos. 2 and 3 are the daughters of the deceased testator.
3. Objection has been raised by the respondent no. 2, that Will dated 22nd November, 2024 of their father, as propounded by the petitioner, i.e., her brother, is forged and fabricated document. In this regard *FIR No. 311/25* dated 16th September, 2025, has been lodged in Police Station, Saket, New Delhi, under Sections 336(2)/338/339/340(2)/3(5) of the *Bhartiya Nyaya Sanhita, 2023 (“BNS”)*, upon the complaint filed by respondent no. 2 herein.



4. The petitioner herein has filed a petition being *W.P.(Crl.) 3310/2025*, titled as “*Pradeep Gupta and Others Versus The State of NCT of Delhi and Anr.*”, seeking quashing of the aforementioned First Information Report (“**FIR**”). In the said case, order dated 9th October, 2025 has been passed by this Court, wherein, it has been specifically directed that the petitioner herein shall join the investigation in the matter. The order dated 9th October, 2025 in *W.P.(Crl.) 3310/2025*, reads as under:

“1. Issue notice.

2. Learned ASC and Mr. Pankaj Gupta accept notice on behalf of respondent no. 1 and 2, respectively. They seek time to file their respective response.

3. Prima facie, it appears that the petitioner no. 1 is none other than the brother of the complainant. The complainant sister is aggrieved qua the inheritance of her father’s property after his death and has alleged that her brothers have colluded with each other to prepare a forged Will to oust her qua her inheritance rights.

4. In this peculiar premise, it is deemed appropriate that subject to the petitioners joining investigation, no coercive steps shall be taken against them.

5. List on 03.12.2025.”

(Emphasis Supplied)

5. Since the aforesaid investigation pursuant to the FIR lodged by respondent no. 2 is underway, the present application has been filed by the I.O. on the premise that since there are allegations of forgery of the Will, the original of the same is required by the I.O. for sending to the forensic laboratory in order to ascertain the signatures on the said Will.

6. The aforesaid application is opposed by the petitioner to the extent that the petitioner is agreeable that the police authority can be allowed for forensic examination of the Will, while the same remains in the custody of this Court.

7. Learned counsel appearing for the petitioner submits that the custody



of the original Will cannot be given to the police, as the possibility of the original Will being tampered, damaged or lost, cannot be ruled out.

8. Learned counsel for the petitioner relies upon the order dated 07th August, 2025, passed by this Court in a similar application filed on behalf of respondent no. 2, wherein, this Court allowed the forensic expert hired by respondent no. 2 to examine the original Will and the documents as mentioned therein, and to take photographs of the same. He further relies upon judgment in the case of *Sanjeev Kumar Mittal Versus State, 2010 SCC OnLine Del 4006*, to submit that the police or any other person from the forensic laboratory can be directed to inspect the Court file, take photographs and photocopies of the original Will, which is in custody of this Court.

9. Learned counsel for the petitioner also relies upon order dated 7th August, 2025, to submit that in similar application filed by respondent no. 2, this Court had granted liberty to the forensic expert of the respondent to examine the original Will and take photographs of the same. It is submitted that similar course ought to be taken by this Court also.

10. Further, it is contended on behalf of the petitioner that giving the custody of the original Will to the police shall virtually stay the present civil proceedings, the same being against the law of the land, which dictates that proceeding of the Civil Court cannot be stayed, because of the pending criminal investigation.

11. Learned counsel for the petitioner also submits that an application of similar nature, being *I.A. 23830/2025*, has also been filed on behalf of the petitioner, wherein, prayer has been made to permit the handwriting expert to inspect and examine the original signature of the Will.



12. *Per contra*, learned counsel appearing for the police, supported by learned Senior Counsel appearing for the respondent no. 2, have refuted the submissions made on behalf of the petitioner and submit that the objections raised by the petitioner are in the nature of hurdle to the investigation. Further, the civil proceedings can continue, as the same are independent proceedings.

13. Having heard learned counsels for the parties, at the outset, it is to be noted that in view of the complaint made by respondent no. 2 against her brother, i.e., petitioner herein, *FIR No. 311/2025* stands registered against the petitioner by the Police Station, Saket, New Delhi. Further, there are allegations by the respondent no. 2, that Will dated 22nd November, 2024, as relied upon by the petitioner, is forged and fabricated. Thus, investigation is being carried out in the said FIR by the applicant herein.

14. For the purposes of the investigation and for ascertaining that the signatures in the said Will are that of the father of the parties, i.e., Late Sh. Jagdish Pershad Gupta, the I.O. has prayed for release of the original of the said Will, for the purposes of sending the same to a forensic laboratory.

15. It is to be noted that the original Will is lying deposited in this Court, and has been kept in a sealed cover, in terms of the directions of this Court *vide* order dated 04th August, 2025.

16. As regards the objection raised by the petitioner against release of the original Will to the I.O. investigating the FIR against the petitioner, law is well settled, that a person against whom an investigation is being carried out, cannot be allowed to obstruct the investigation in any manner, whatsoever. Such person only has the right to assail validity of evidence so collected during the course of trial, but cannot plead or direct the manner in



which the investigation would be carried out by the investigating agencies. Thus, the Supreme Court in the case of *Narender G. Goyal Versus State of Maharashtra and Another*, (2009) 6 SCC 65, held as follows:

“xxx xxx xxx

11. It is well settled that the accused has no right to be heard at the stage of investigation. The prosecution will however have to prove its case at the trial when the accused will have full opportunity to rebut/question the validity and authenticity of the prosecution case. In *Sri Bhagwan Samardha Sreepada Vallabha Venkata Vishwanandha Maharaj v. State of A.P.* [(1999) 5 SCC 740: 1999 SCC (Cri) 1047] this Court observed : (SCC p. 743, para 11)

“11. ... There is nothing in Section 173(8) to suggest that the court is obliged to hear the accused before any such direction is made. Casting of any such obligation on the court would only result in encumbering the court with the burden of searching for all the potential accused to be afforded with the opportunity of being heard.”

12. The accused can certainly avail himself of an opportunity to cross-examine and/or otherwise controvert the authenticity, admissibility or legal significance of material evidence gathered in the course of further investigations. Further in light of the views expressed by the investigating officer in his affidavit before the High Court, it is apparent that the investigating authorities would inevitably have conducted further investigation with the aid of CFS under Section 173(8) of the Code.

13. We are of the view that what is the evidentiary value can be tested during the trial. At this juncture it would not be proper to interfere in the matter.

xxx xxx xxx”

(Emphasis Supplied)

17. It is equally well settled that adjudication in civil matters and criminal prosecution proceeds on different principles, and are independent proceedings. In the circumstance, wherein, the civil and criminal proceedings emanate from the same set of facts, the criminal liability would be examined independently from the civil, which would be decided on its own merits. Further, the criminal proceeding would continue, besides the



civil proceeding, in that regard.

18. It has been held time and again that a criminal proceeding will have primacy over the civil proceeding. Thus, the Supreme Court in the case of *Syed Askari Hadi Ali Augustine Imam and Another Versus State (Delhi Administration) and Another*, (2009) 5 SCC 528, held as follows:

“xxx xxx xxx

22. It is, however, now well settled that ordinarily a criminal proceeding will have primacy over the civil proceeding. Precedence to a criminal proceeding is given having regard to the fact that disposal of a civil proceeding ordinarily takes a long time and in the interest of justice the former should be disposed of as expeditiously as possible. The law in this behalf has been laid down in a large number of decisions. We may notice a few of them.

xxx xxx xxx

24. If primacy is to be given to a criminal proceeding, indisputably, the civil suit must be determined on its own merit, keeping in view the evidence brought before it and not in terms of the evidence brought in the criminal proceeding. The question came up for consideration in *K.G. Premshanker v. Inspector of Police* [(2002) 8 SCC 87 : 2003 SCC (Cri) 223] wherein this Court inter alia held: (SCC p. 97, paras 30-31)

“30. What emerges from the aforesaid discussion is—(1) the previous judgment which is final can be relied upon as provided under Sections 40 to 43 of the Evidence Act; (2) in civil suits between the same parties, principle of *res judicata* may apply; (3) in a criminal case, Section 300 CrPC makes provision that once a person is convicted or acquitted, he may not be tried again for the same offence if the conditions mentioned therein are satisfied; (4) if the criminal case and the civil proceedings are for the same cause, judgment of the civil court would be relevant if conditions of any of Sections 40 to 43 are satisfied, but it cannot be said that the same would be conclusive except as provided in Section 41. Section 41 provides which judgment would be conclusive proof of what is stated therein.

31. Further, the judgment, order or decree passed in a previous civil proceeding, if relevant, as provided under Sections 40 and 42 or other provisions of the Evidence Act then in each case, the court has to decide to what extent it is binding or conclusive with regard to the matter(s) decided therein. Take for illustration, in a



case of alleged trespass by A on B's property, B filed a suit for declaration of its title and to recover possession from A and suit is decreed. Thereafter, in a criminal prosecution by B against A for trespass, judgment passed between the parties in civil proceedings would be relevant and the court may hold that it conclusively establishes the title as well as possession of B over the property. In such case, A may be convicted for trespass. The illustration to Section 42 which is quoted above makes the position clear. Hence, in each and every case, the first question which would require consideration is—whether judgment, order or decree is relevant, if relevant—its effect. It may be relevant for a limited purpose, such as, motive or as a fact in issue. This would depend upon the facts of each case.”

xxx xxx xxx”

(Emphasis Supplied)

19. Likewise, holding that where a civil proceeding, as also a criminal proceeding is pending, the latter shall get primacy, the Supreme Court in the case of ***Lakshmi and Another Versus Chinnamal Alias Rayyammal and Others***, (2009) 13 SCC 25, held as follows:

“xxx xxx xxx

13. If bringing on record a document is essential for proving the case by a party, ordinarily the same should not be refused; the court's duty being to find out the truth. The procedural mechanics necessary to arrive at a just decision must be encouraged. We are not unmindful of the fact that the court in the said process would not encourage any fishing enquiry. It would also not assist a party in procuring a document which he should have himself filed.

*14. There cannot furthermore be any doubt that by calling for such documents, the court shall not bring about a situation whereby a criminal proceeding would remain stayed as **it is a well-settled principle of law that where a civil proceeding as also a criminal proceeding is pending, the latter shall get primacy.***

xxx xxx xxx”

(Emphasis Supplied)

20. In the case in hand, while the present probate proceedings with regard to the Will dated 22nd November, 2024 shall proceed, the criminal proceeding into allegations of a forged Will, would also continue



concurrently. The pending probate case does not bar parallel criminal proceedings regarding the alleged forgery of the Will. In this regard, reference may be made to the judgment of the Supreme Court in the case of *C.S. Prasad Versus C. Satyakumar and Others*, 2026 SCC OnLine SC 50, wherein, it has been held as follows:

“xxx xxx xxx

27. Adjudication in civil matters and criminal prosecution proceed on different principles. The decree passed by the Civil Court neither records findings on criminal intent nor on the existence of offences such as forgery, cheating, or use of forged documents. Therefore, civil adjudication cannot always be treated as determinative of criminal culpability at the stage of quashment. Moreover, in the case at hand, the civil proceedings have not attained finality.

28. Adjudication of forgery, cheating or use of forged documents in relation to a settlement deed will always carry a civil element. Therefore, there cannot be any general proposition that whenever dispute involves a civil element, a criminal proceeding cannot go on. Criminal liability must be examined independently. Respondent Nos. 1 to 3 were entitled to acquittal only upon failure of proof in the trial and not at the threshold jurisdiction under Section 482 of the Cr. P.C. To permit quashing on the sole ground of a civil suit would encourage unscrupulous litigants to defeat criminal prosecution by instituting civil proceedings.

xxx xxx xxx”

(Emphasis Supplied)

21. Since investigation by the police in the FIR pertaining to the complaint of forgery of the Will, i.e., subject matter of the present petition, is being carried out independently, this Court finds no impediment in releasing the original Will to the police for forensic examination of the same, in furtherance of the investigation by the police.

22. However, in order to allay the concern raised by the petitioner regarding tampering of the original Will, in order to safeguard the interests of the parties, certified copies of the Will shall be prepared by the Registry



of the Court and kept in its record and shall also be provided to the learned counsels for the petitioner as well as respondent nos. 2 and 3, in order to ensure that no prejudice is caused to either party on account of release of the original Will to the IO investigating into the case of forgery of the Will.

23. Similar course of action was taken by the Gujarat High Court in the judgment of *Sama Piyushbhai Shah Versus Madanlal Hastimal Rathi, 2019 SCC OnLine Guj 5842*, wherein, noting that the controversy in the said case related to the forgery of the Will, it was held that for proper investigation of the criminal offence, it is necessary for the investigating officer to take the document for the purpose of examination to Forensic Science Laboratory (“FSL”). It was further held that if the original Will was not provided to the Investigating Officer in the said case, then entire investigation of the offence could not be carried out and the Investigating Officer would not be in a position to complete the investigation. Thus, holding that when there is an element of allegation of fabrication and forgery of the document, the document in custody of the Court can be handed over to the Investigating Officer, as and when it is requested by the Investigating Officer, the Court in the aforesaid case, held as follows:

“xxx xxx xxx

*15. Considering the submissions of the learned counsel for the parties and the material placed with the matter, it is undisputed facts that the plaintiff has filed the suit on the basis of alleged Will dated 1.11.2015 executed by Indira Betiji. It is also undisputed fact that at the time filing the suit, the copy of the Will was produced and during pendency of the suit i.e. before filing of the written statement by the defendants, the plaintiff has produced original Will for safe custody in the Court and learned trial Court has permitted the plaintiff to produce the original Will, which is kept in the custody of Nazir of the Court. **It is also undisputed fact that the criminal complaint has been lodged against the plaintiff regarding forgery of the said Will and the DCB police is investigating the same. It is also undisputed fact that the***



Police Inspector, DCB, has filed an application before the trial Court for getting the original Will in question for sending it for investigation to FSL. The moot question is whether the trial Court can hand over the original Will to the police for investigation or not. It is an admitted fact that entire controversy is relating to forgery of the Will and for proper investigation of the criminal offence, it is but necessary for the investigating officer to take the document for the purpose of examination through FSL. If the original Will is not provided to the investigating officer then entire investigation of the offence could not be carried out and the investigating officer would not be in a position to complete the investigation. At the same time, if the document is handed over to the investigating officer for investigation purpose then no right of the plaintiff would be jeopardized. of course, apprehension on the part of the plaintiff regarding tampering with the Will is concerned, it can be protected by incorporating certain conditions. It is well settled that in a given case, when there is an element of allegation of fabrication and forgery of the document, the document in the custody of the Court can be handed over to the investigating officer, as and when it is requested by the investigating officer. Now so far as the power of Civil Court to decide the genuineness of the Will is concerned, Civil Court also has power and authority to decide that question and the party concerned may lead evidence to that effect. But when there is a question relating to forgery or fabrication of the Will, then criminal law will come into play and the necessity is to complete the investigation in criminal case. It is necessary for the investigating agency to have original document so that the investigation can be completed and provision of the criminal law can be satisfied.

16. In view of this legal scenario, in the present case, when there is allegation of fabrication and forgery of the document, it is necessary that the original Will may be handed over to the investigating officer for examination through FSL. So far as apprehension of tampering with the original Will is concerned, to safeguard the interest of the plaintiff certified copy thereof may be prepared by the Court itself and it may be kept in the record by giving a copy to both the parties and the original Will may be handed over to the investigating officer, with a condition that as soon as the report of FSL is received, the original should be placed before the Civil Court by the investigating officer, by keeping a copy thereof in a criminal matter. If such course is adopted then there will be no prejudice to either of the parties.

17. On perusal of the impugned order of the trial Court, it appears that it has directed the investigating officer to get the certified copy at his level and then to submit to the trial Court. This observation is



required to be modified in a manner that the trial Court itself should get the xerox copy of the Will and certify itself and give a copy thereof to the plaintiff as well as the defendants and original should be handed over to investigating officer, with a condition to re-submit it to the trial Court, as and when the report from FSL is received by him, after keeping a copy thereof in criminal matter.
xxx xxx xxx”

(Emphasis Supplied)

24. The aforesaid judgment was upheld by the Supreme Court *vide* order dated 04th May, 2020, by dismissing the *Special Leave Petition (Civil) Diary No. 7495/2020*, titled as “***Sama Piyushbhai Shah Versus Madanlal Hastimal Rathi & Ors.***”.

25. As regards the reliance by the petitioner on the order dated 07th August, 2025, the same was passed by this Court in different circumstances on the application filed by respondent no. 2 and not by any investigating agency. This Court would not have directed release of the original Will to a private party. Therefore, it is manifest that the order dated 07th August, 2025 directing the forensic expert of respondent no. 2, to examine the original Will in the Court itself and take photographs of the same, was passed in different scenario.

26. Likewise, reliance by the petitioner on the judgment in the case of ***Sanjeev Kumar Mittal (supra)***, is totally misplaced. The said judgment was passed in an application under Section 340 of the erstwhile Code of Criminal Procedure, 1973 (“**Cr.PC**”), wherein, it was held that criminal contempt of court had been committed. Accordingly, directions were issued to the Delhi Police to investigate the said matter and register an appropriate case. It was in these circumstances that directions were issued to the Police to inspect the Court file, take photographs and photocopies, of the original documents in custody of the Court.



27. Accordingly, considering the detailed discussion hereinabove, it is directed as follows:

- I. The original Will dated 22nd November, 2024 of late Mr. Jagdish Pershad Gupta lying in sealed cover in the Registry of this Court, shall be released to the I.O. in *FIR No. 311/25* dated 16th September, 2025, Police Station, Saket, New Delhi, forthwith for its forensic examination.
 - II. Before releasing the original Will to the I.O., the Registry of this Court shall prepare four certified copies of the original Will. One certified copy shall be kept in the custody of the Registry, and one certified copy each shall be given to the learned counsels for the petitioner, respondent nos. 2 and 3, respectively.
 - III. As soon as the forensic report is received by the I.O., the original Will shall be handed over to this Court, which shall be placed in safe custody of the Registry in a sealed cover.
28. The present application, along with *I.A. 543/2026*, is disposed of in the aforesaid terms.

**MINI PUSHKARNA
(JUDGE)**

FEBRUARY 10, 2026
ak/sk/au