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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 14.07.2025*+ **W.P.(CRL) 379/2025 & CRL.M.A. 3356/2025****SHRI JAGDISH CHAND SURROACH AND
ORS.**

.....Petitioner

Through: Mr. Deepak Kumar Tyagi and
Ms. Deepti Tyagi, Advocates

versus

THE STATE OF NCT OF DELHI & ORSRespondentsThrough: Mr. Sanjeev Bhandari, ASC for
the State with SI Narender,
P.S. Vikaspuri**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J (ORAL)**

1. The present writ petition has been preferred by the petitioners Jagdish Chand Surroach and his two sons, Sandeep Surroach and Muneesh Surroach, for seeking quashing of FIR bearing no. 0026/2024, registered on 11.01.2024 at Police Station Vikaspuri, District West, Delhi, for commission of offence under Section 420 of the Indian Penal Code, 1860 [hereafter '*IPC*'].

2. Brief facts of the case are that the present FIR was registered on the complaint of Smt. Meena Goel (respondent no. 3), who alleged that she was induced into purchasing residential property



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bearing No. K-309, Ground Floor, Kangra Adarsh CGHS Ltd., Vikas Puri, New Delhi, by the accused persons, Sh. Jagdish Chand Surroach (Managing Director of Sannesh Enterprises Pvt. Ltd.), Sh. Sandeep Surroach and Sh. Muneesh Surroach (both Directors of the said company), on the representation that the property was free from all encumbrances and being sold urgently for business reasons. It is alleged that based on the assurances and after being shown original title documents, the complainant had paid a total sum of ₹50,00,000/- through eleven cheques drawn on her and her husband's accounts dated 10.02.2021, along with TDS paid *via* Challan No. 280, and all the cheques had been duly encashed by the accused persons. Thereafter, a registered sale deed was executed in her favour on 10.02.2021 *vide* registration no. 3041, and notably, accused nos. 2 and 3 acted as attesting witnesses to the said sale deed. It is further alleged that despite full payment and execution of the sale deed, physical possession of the property was not handed over, and the complainant was informed that the accused persons would vacate the premises shortly, in the interim paying ₹25,000/- per month as rent. Subsequent requests for the original chain of title documents were allegedly met with evasive conduct. Upon further inquiry, the complainant discovered that the said property had been mortgaged to Indian Bank prior to the execution of the sale deed – a material fact that was knowingly suppressed by all the three accused persons, who being Directors of the borrower company, were fully aware of the existing encumbrance. It is thus alleged that the accused persons, in



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furtherance of a conspiracy, had dishonestly received the sale consideration, executed a fraudulent transfer/sale deed, and caused wrongful loss to the complainant by deceitfully concealing the mortgage status of the property, thereby committing several offences punishable under the IPC. On these allegations, the present FIR was registered.

3. The learned counsel appearing for the petitioners submits that petitioner no. 1 had already instituted proceedings under Section 200 of Cr.P.C. read with Section 156(3) of Cr.P.C. against respondent no. 3 and her husband before the learned Judicial Magistrate, First Class, South-West District on 19.08.2023. It is submitted that respondent no. 3 and her husband had taken back the entire sale consideration amounting to ₹50,00,000/- from petitioner no. 1 when the cheque mentioned in the sale deed was presented for encashment in the bank account of respondent no. 3, which is maintained at the same branch where the respondent had also opened an account in the name of the petitioner. It is contended that since no actual sale consideration was received by the petitioner, the sale deed dated 10.02.2021 is without consideration and therefore void in the eyes of law. Consequently, the petitioner did not hand over physical possession of the subject property to the respondent no. 3. The learned counsel further submits that respondent no. 3 has also instituted proceedings under Section 138 of the Negotiable Instruments Act, 1881 against petitioner no. 1, which is nothing but a gross misuse of the process of law with the sole intention of harassing the petitioner.



4. It is further submitted that a Memorandum of Understanding was subsequently executed between the petitioners and respondent no. 3, whereby the parties settled all their disputes in respect of the said property. As per the said MoU, respondent no. 3 agreed to settle her claim for a sum of ₹28,00,000/-, out of which she has received ₹1,00,000/-. In view thereof, the continued prosecution of criminal proceedings by respondent no. 3 is wholly unwarranted. The learned counsel also argues that since the respondent no. 3 and her husband had already received the full sale consideration of ₹50,00,000/- and further entered into a settlement, she neither holds any valid ownership or possessory rights over the subject property, nor does she have any legal ground to initiate or continue criminal proceedings against the petitioners. It is thus prayed that the present petition be allowed and the FIR be quashed.

5. The learned counsel appearing for respondent no. 3/complainant opposes the petition and submits that the FIR discloses a clear case of cheating and criminal misrepresentation by the petitioners, who had induced the complainant into purchasing the property by falsely representing that it was free from encumbrances. It is submitted that the complainant had paid the entire sale consideration of ₹50,00,000/- through eleven cheques, all of which were duly encashed, and a registered sale deed was executed on 10.02.2021. However, despite full payment, possession was not handed over, and it was later discovered that the property was already mortgaged to a bank, a fact deliberately concealed by the petitioners.



6. It is further submitted that the MoU relied upon by the petitioners has no legal sanctity, as the complainant never consented to it voluntarily. The said MoU was obtained under threat and coercion. Therefore, the said MoU cannot be used to defeat the lawful criminal proceedings initiated by the complainant.

7. This Court has **heard** arguments addressed by both the parties and has perused the material placed on record.

8. Having perused the material placed on record and considered the rival submissions, this Court finds that the FIR discloses specific allegations against the petitioners, which *prima facie* constitute the offence of cheating. The complaint alleges that she was induced into purchasing a residential flat after being shown the original title documents and being reassured that the property was free from all encumbrances. It is also clearly alleged that the complainant had paid a total sum of ₹50,00,000/- through eleven cheques, which were duly encashed by the petitioners. Despite receipt of full consideration and execution of a registered sale deed, the petitioners admittedly did not hand over physical possession of the property. On the contrary, the allegations in the FIR suggest that a fresh arrangement was made whereby the petitioners remained in possession of the property as tenants on a nominal rent of ₹25,000/- per month. Further, it later came to light that the property had already been mortgaged to Indian Bank – a fact that was allegedly never disclosed to the complainant at the time of execution of the sale deed. Such allegations, if proven, may constitute the offence of cheating under Section 420 of IPC.



9. The petitioners have now relied upon a Memorandum of Understanding, purportedly executed between the parties to settle the dispute. However, the complainant has categorically denied having entered into the said MoU voluntarily, asserting that the same was signed under coercion and pressure. Whether the MoU was executed voluntarily or under duress, and whether any amount has been paid under it, are disputed questions of fact which cannot be conclusively adjudicated at this stage.

10. The contention raised by the petitioners that the dispute is purely civil in nature is also misconceived. It is well settled that merely because a civil remedy may be available to a party, it does not bar the invocation of criminal law where the allegations disclose elements of criminality. The Hon'ble Supreme Court has time and again held that where a *prima facie* case of deceit, cheating or fraudulent misrepresentation is made out, the pendency or availability of a civil remedy does not preclude criminal proceedings. In this regard, reference can be made to the following observations of the Hon'ble Supreme Court in case of ***Amit Kapoor v. Ramesh Chander***: (2012) 9 SCC 460:

“27.11. 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.”

11. Thus, what clearly emerges from the record at this stage are three material aspects: *first*, that cheques amounting to ₹50,00,000/-



were issued by the complainant and duly encashed by the petitioners; *second*, that despite execution of the sale deed, the petitioners, admittedly, did not hand over physical possession of the property to the complainant; and *third*, that although the property was encumbered and mortgaged to a bank, the registered sale deed falsely declared that it was free from any encumbrance. Though the petitioners have attempted to offer explanations for each of these undisputed/conceded facts, such explanations do not inspire confidence of this Court, at this stage. These are matters which require thorough investigation. The deliberate inclusion of a false declaration in the registered sale deed cannot be merely considered a procedural lapse but it *prima facie* reflects a conscious act, possibly aimed at misleading the buyer or authorities. This assertion, when viewed in conjunction with other surrounding circumstances of the transaction, assumes greater significance. At this juncture, it is neither possible nor appropriate for this Court to draw final conclusions; however, the material on record discloses a *prima-facie* case warranting deeper scrutiny through investigation.

12. At this stage, it is apposite to note that the inherent powers of the High Court are to be exercised sparingly, with great caution, and only in rare and exceptional cases where the continuation of criminal proceedings would amount to an abuse of the process of law or where the allegations in the FIR, even if taken at face value, do not disclose the commission of any offence. It is not the function of this Court to embark upon a meticulous examination of the evidence or enter into



disputed questions of fact at this stage, when the investigation is also not complete.

13. In *Neeharika Infrastructure v. State of Maharashtra: 2021 SCC OnLine 315*, the Hon'ble Supreme Court analysed several judicial precedents and culled out the relevant principles that govern the law on quashing of FIR. The Court has held as under:

“57. From the aforesaid decisions of this Court, right from the decision of the Privy Council in the case of *Khawaja Nazir Ahmad (supra)*, the following principles of law emerge:

- i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into cognizable offences;
- ii) Courts would not thwart any investigation into the cognizable offences;
- iii) However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on;
- iv) The power of quashing should be exercised sparingly with circumspection, in the 'rarest of rare cases'. (The rarest of rare cases standard in its application for quashing under Section 482 Cr.P.C. is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court);
- v) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;
- vi) Criminal proceedings ought not to be scuttled at the initial stage;
- vii) Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule;



viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, recognised to secure the ends of justice or prevent the abuse of the process by Section 482 Cr.P.C.

ix) The functions of the judiciary and the police are complementary, not overlapping;

x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;

xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;

xii) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

xiii) The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be cautious. It casts an onerous and more diligent duty on the court;

xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P.



Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR/complaint; and

xv) When a prayer for quashing the FIR is made by the alleged accused, the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR.”

14. In the case of ***CBI v. Aryan Singh***: 2023 SCC Online SC 379, the Hon’ble Supreme Court held that the Courts while exercising its power to quash FIRs have a very limited jurisdiction and they are only required to consider as to “whether any sufficient material is available to proceed further against the accused for which the accused is required to be tried or not”.

15. It is pertinent to note that the investigation in the case is still ongoing and the charge sheet/final report is yet to be filed. The rival versions put forth by both sides, involving allegations of fraud and coercion on one hand, and denial and counter-allegations on the other, would require proper appreciation of evidence, which can only happen after investigation is concluded and, if necessary, during trial.

16. In light of the above discussion, this Court is of the view that the FIR cannot be said to be malicious, vexatious or devoid of substance, or the allegations herein cannot be termed as absurd or improbable, so as to warrant interference under the extraordinary jurisdiction of this Court. The allegations *prima facie* disclose



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commission of cognizable offence and are supported by some documentary evidence.

17. Accordingly, this petition is found to be devoid of merit and is dismissed.

18. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

JULY 14, 2025/zp