



<u>Serial No.01</u>
<u>Supple List 1</u>

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl. Petn. No.13 of 2024

Date of Decision: 26.11.2025

1.Smti Anu Jain Bohra.
W/o- Shri Sumit Kumar Jain Bohra
R/o “Bohra Residency”
Near Durga Puja Mandap,
Fancy Valley, Tura
District: West Garo Hills, Meghalaya.

2. Shri Sumit Kumar Jain Bohra
S/o- Shri Suresh Kumar Jain Bohra
R/o “Bohra Residency”
Near Durga Puja Mandap,
Fancy Valley, Tura
District: West Garo Hills, Meghalaya.

..... Petitioners.

Vs.

1.State of Meghalaya
Represented by the Superintendent of Police,
West Garo Hills District, Meghalaya.

2. Sri Amit Kumar Jain Bohra
S/o- Shri Suresh Kumar Jain Bohra
R/o “Bohra Residency”
Near Durga Puja Mandap,
Fancy Valley, Tura
District: West Garo Hills, Meghalaya.

.....Respondents.



Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. V. K. Jindal, Sr. Adv. with
Mr. S. Goenka, Adv.

For the Respondent(s) : Mrs. T. Yangi B, AAG with
Mr. K. P. Bhattacharjee, GA (R: 1)
Mr. P. R. Paske, Adv. (R: 2).

JUDGMENT AND ORDER

Heard Mr. V. K. Jindal, learned Senior Counsel assisted by Mr. S. Goenka learned Counsel appearing for the petitioners, Mrs. T. Yangi B, learned AAG assisted by Mr. K. P. Bhattacharjee, learned GA appearing for the State-respondent No.1 and Mr. P. R. Paske, learned Counsel appearing for the respondent No.2.

1. This criminal petition has been filed praying for quashing of the FIR dated 14-03-2023 registered as Tura PS Case No. 23 (3) of 2023 under Section 420/468/471 IPC.

2. The brief fact of the case is that the respondent No.2, acting as an agent of one Smti Kusum Gupta, filed the FIR dated 14-03-2023 alleging that the petitioner No.1 claiming herself to be the owner of the property covered by P.P. No. 420, Dag No. 1450 measuring about 0B-1K-3L under Mouza No. X-I, situated at fancy valley, Tura, issued eviction notices to the tenants residing therein. It was also alleged that the petitioner No.1



claimed the property to be 'Bohra House'. According to the FIR, Smti Kusum Gupta is the owner of the said property which devolved on her from her husband (late) Shiv Jatan Gupta by way of inheritance. On an enquiry from the office of the Garo Hills Autonomous District Council (GHADC) with regard to the status of the property, it was learnt that the property in question had been mutated in the name of the petitioner No.2 in the revenue records of GHADC. It was alleged that if such illegal mutation had happened, the petitioner No.2, being a non-tribal, had no right to purchase any property or to get the land mutated in his favour from late Shiv Jatan Gupta, the original owner of the land, in terms of the provision of the Land Transfer Act of Meghalaya and such illegal transfer would only be possible through an act of criminal conspiracy, cheating, fraud, impersonation and other provisions of the Indian Penal Code. Further, the petitioners have no authority to issue eviction notice to the tenants. The FIR, as such, called for inspection of revenue records of GHADC as the petitioner No.2 holds influence in the town and his antecedents could well be seen from an earlier FIR dated 22-03-2021. Four enclosures were attached to the FIR 14-03-2023.

3. On the basis of the aforesaid FIR dated 14-03-2023, the Tura PS Case No. 23 (3) of 2023 was registered under Section 420/468/471 IPC and an investigation was launched in the matter by the police. The petitioner No.1 was arrested and was subsequently released on bail by the Court of the Chief Judicial Magistrate, Tura vide order dated 01-05-2023 and the petitioner No.2 was granted anticipatory bail by the High Court vide order dated 28-04-2023 passed in A.B. No. 10 of 2023.



4. Assailing the impugned FIR, Mr. V. K. Jindal, learned Senior Counsel submits that the petitioner No.2 and the respondent No.2 are related as brothers and the dispute between the petitioners and the respondent No. 2 is purely civil in nature. He submits that the property in question measuring about 1K-3L, covered by Dag No.1450 and PP No.420, was originally owned by one (late) Ram Dhani Gupta who sold a part of the property measuring about 12L to the grandfather of the petitioner No.2, namely, (late) Deo Chand Jain Bohra and separate patta was created numbered as PP No. 420 and Dag No. 1450. In the year 1969, the property was mutated in favour of the father of the petitioner No.2 (late) Suresh Kumar Jain Bohra and on 14-03-1997 mutation was allowed in favour of both the petitioners by right of inheritance. The names of both the children of petitioners were also added in the land record and a new patta number 2258, Dag No. 5630 was issued on 11-05-2022. The learned Senior Counsel further submits that on 30-07-2009 (late) Shiv Jatan Gupta executed a General Power of Attorney in favour of the petitioner No.2 by inadvertently mentioning the entire original land measuring 1K-3L; Smti Kusum Gupta wife of (late) Shiv Jatan Gupta was a witness to the said Power of Attorney.

5. In the above factual background, the learned Senior Counsel submits that the initiation of criminal investigation against the petitioner on the basis of the impugned FIR is nothing but a clear abuse of process of law. He further submits that there is no whisper of commission of any criminal offence by the petitioners in the FIR and no case is made out even if the allegations made in the FIR are accepted. He submits that the respondent No.2 did not have proper authority or power to file the impugned FIR and



he is acting at the behest of Smti Kusum Gupta in order to cause unnecessary harassment to the petitioners. He contends that the ingredients of offence under Section 420/468/471 IPC are totally missing in the FIR and the FIR is vague as there is no specific disclosure of any offence by the petitioners. The learned Senior Counsel submits that on an earlier occasion in the year 2022 a similar FIR was filed against the petitioners on false grounds but the police did not take any action as the preliminary investigation revealed that it was a false case and was civil in nature. He submits that the allegation of violation of the Meghalaya Transfer of Land (Regulation) Act, 1971 and the issuance of eviction notice by the petitioner No.1 cannot be construed as a criminal act as the notice has not been issued in the name of Smti Kusum Gupta by forging her signature. He submits that this High Court while allowing the anticipatory bail application of the petitioner No.2 by order dated 28-04-2023 has held that the matter appears to be a civil dispute. He submits that owing to the continuous harassment by the respondent No.2 at the behest of Smti Kusum Gupta, the petitioners have instituted Title Suit No. 10 of 2023 along with Misc. Case No. 12 of 2023 in the Court of the Assistant to the Deputy Commissioner (J), Tura with regard to the property in dispute. He, therefore, prays that the impugned FIR dated 14-03-2023 and the related Tura PS Case No. 23 (3) of 2023 under Section 420/468/471 IPC be quashed. To buttress his argument, the learned Senior Counsel places reliance on the decisions of the Apex Court in *Municipal Corporation of Delhi V. Ram Kishan Rohtagi & Ors*, AIR 1983 SC 67, *Mahendra K.C. Vrs. State of Karnataka & Anr.*, (2022) 2 SCC 129 and *Dara Lakshmi Narayana & Ors. Vs. State of Telangana & Anr*, (2025) 3 SCC 735.



6. Mrs. T. Yangi B, learned AAG appearing for the State-respondent No.1, on the other hand, submits that the FIR dated 14-03-2023 speaks of suspicious transfer of the property and the same could not have been done without the co-operation of the officials of the concerned land record department. By referring to the averments made in the instant criminal petition and the materials on record, she submits that the claim of the petitioners with regard to the property in question is contradictory in many aspects and the facts and situation of the case demands thorough investigation of the matter by police to unearth the truth. The learned AAG further submits that though the allegations made in the FIR speaks of a civil dispute, it also involves criminal offence constituting on the same set of facts. She submits that when the FIR clearly discloses commission of criminal offence, the investigation initiated in the matter should not be interfered with merely because a civil wrong has also been committed. She submits that the FIR is only a piece of information basing on which investigation is initiated and it would be improper for this Court, at this juncture, to scuttle the investigation by evaluating the truthfulness of the allegations made in the FIR. The reliability or genuineness of the allegations made in the FIR can only be ascertained after conducting a proper investigation. She submits that the institution of the title suit by the petitioners with regard to the property in dispute is after thought just to escape from the criminal liability of the matter. The learned AAG, therefore, submits that the investigation may be allowed to come to a logical conclusion and prays that the criminal petition be dismissed being devoid of merits. She supports her argument by relying on the decisions of the Apex Court in *Kaptan Singh Vs. State of Uttar Pradesh & Ors.*, (2021) 9 SCC 35, *Iqbal Alias Bala & Ors. Vs. State of Uttar Pradesh & Ors.*,



(2023) 8 SCC 734, State of UP. Vs. O.P. Sharma, (1996) 7 SCC 705, Rajiv Thapar & Ors. Vs. Madan Lal Kapoor, (2013) 3 SCC 330 and Amit Kapoor Vs. Ramesh Chander & Anr., (2012) 9 SCC 460.

7. Mr. P. R. Paske, learned Counsel appearing for the respondent No.2 endorses the submission made by the learned AAG and further submits that the property in dispute never belonged to one (Late) Ram Dhani Gupta as the property was originally a waste land and was settled in favour of one (Late) Ram Jatan Ram by way of a Suitability Certificate issued by the then Deputy Commissioner, Garo Hills District in the year 1958-1959 and by the Executive Member, I/C Revenue, District Council, Tura vide order dated 27-08-1959. He submits that the grandfather or the father of the petitioners had never purchased or owned the said property at any point of time and the statements made by the petitioners in the present case are totally incorrect. He further submits that the property in dispute in the present case stands in the name of Smti. Shella Devi Prasad and (Late) Shiv Jatan Gupta (Ram) as per the records of Land Rights maintained by GHADC and the mutation carried out by the petitioners is based on forged and fabricated documents. He submits that the petitioners carried out mutation of the property and obtained two joint land pattas on 26-10-2021 on the basis of a General Power of Attorney dated 30-07-2009 in gross violation of the bar posed by the Meghalaya Transfer of Land (Regulation) Act, 1971. The learned Counsel submits that the fact that the name of Shiv Jatan Gupta (Ram), the husband of Smti Kusum Gupta, had been shown as a recorded owner of the property in the Periodic (Miadi) Patta having validity till 31-03-2016 (Enclosure-II to the FIR dated 14-03-2023) clearly projects the falsity of the claim of the petitioners. He, therefore, submits



that the illegal act and unlawful transaction of the petitioners with regard to the property in dispute can only be ascertained by a proper investigation and prays that the criminal petition be dismissed.

8. Having heard the learned Counsels for the rival parties and having gone through the materials on record, it is clear that there exists a dispute between the petitioners and one Smti. Kusum Gupta represented by the respondent No.2 concerning the property situated at fancy valley, Tura covered by PP No. 420, Dag No. 1450 measuring 0B-1K-3L under Mouza No. X-I and the dispute referred in the FIR dated 14-03-2023 is with regard to the said property.

9. Before coming to the allegations made in the FIR, it would be appropriate to refer to the various authorities relied on by the parties in support of their respective pleas.

10. The decision of *Ram Kishan Rohtagi (supra)*, relied on behalf of the petitioners, laid down that the proceeding against an accused in the initial stages can be quashed if on the face of the complaint or the papers accompanying the same, no offence is constituted. The test is that taking the allegation and the complaint as they are, without adding or subtracting anything, if no offence is made out than the High Court will be justified in quashing the proceeding in exercise of powers under 482 Cr.PC. In *Mahendra K.C (supra)* case, the above proposition was reaffirmed by the Apex Court and further held that while exercising the power of quashing, the Court cannot function as a Court of appeal or revision. At this stage, the High Court cannot test the veracity of the allegations nor can proceed in the manner like a Judge conducting a Trial. Further, in *Dara Lakshmi*



Narayan & Others (supra) it was provided that if an FIR is lodged making vague and omnibus allegation without mentioning any specific details including date, time, place or manner of commission of alleged occurrence, entire criminal proceeding arising out of that FIR can be quashed.

11. In the decisions of *Kaptan Singh (supra)* and *Iqbal alias Bala & Others (supra)*, relied on behalf of the State-respondent, it was broadly held that if the petition under Section 482 Cr.PC was at the stage of FIR, in that case the allegations in the FIR/complaint only are required to be considered and whether a cognizable offence is disclosed or not is required to be considered. However, when the statements are recorded, evidence is collected and the charge-sheet is filed after conclusion of the investigation/inquiry, the matter stands on different footing and the Court is required to consider the material/evidence collected during the investigation. It was also provided that proper remedy of accused in such case is to prefer discharge application before the Trial Court for consideration in accordance with law. In the cases of *O.P. Sharma (supra)* and *Rajiv Thapar and Others (supra)*, the Hon'ble Supreme Court while dealing with the issue of quashing of criminal proceeding at initial stage, held that High Court should be reluctant to interfere at the threshold to thwart the prosecution exercising its inherent power when FIR contains all the ingredients of the offence and that is not the stage for evaluating the truthfulness or otherwise of the allegation levelled by the prosecution against the accused. Likewise, it is not a stage for determining how weighty the defence is raised on behalf of the accused. In the case of *Amit Kapoor (supra)* it was held that mere existence of civil dispute would not by itself alter status of allegations constituting criminal offence. If the



records disclose commission of a criminal offence and ingredients of the offence are satisfied, then criminal proceeding cannot be quashed merely because a civil wrong has also been committed.

12. The record of the present matter does not reflect the current status of the case or the progress made in the investigation by police. It is stated by the learned AAG that because of a stay order passed in a connected matter, the investigation of this case could not proceed. However, it appears that no stay order has been passed in the instant matter. Thus, read in the light of the above authorities relied on by the parties, what falls for consideration of this Court is whether the allegations made in the impugned FIR dated 14-03-2023 makes disclosure of any cognizable offence justifying initiation of investigation in the matter by police.

13. Perusal of the impugned FIR dated 14-03-2023 shows that the filing of the FIR was triggered by the fact of alleged issuance of the eviction notice dated 21-10-2022 by the petitioner No.1 to the tenants living under occupancy in the property in dispute by claiming the property to be 'Bohra House'. The FIR further stated that it was ascertained from the office of the GHADC, Tura that the property in question had been mutated in the name of the petitioner No.2 in the revenue records of the GHADC. It was alleged that if such mutation had taken place, it would be against the provisions of the Meghalaya Transfer of Land (Regulation) Act, 1971. Further, any act, deed or thing done towards such illegal transfer would only be possible through an act of criminal conspiracy, cheating, fraud, impersonation and other provision of the Indian Penal Code.



14. From the materials placed on record, it is evident that the allegations levelled in the FIR are vague, speculative and unsupported by any definite or ascertainable facts. The FIR does not disclose any concrete incident or factual foundation that would constitute the basic ingredients of the alleged offences. In particular, no specific document has been identified as having been forged by the petitioners. There is also no assertion in the FIR that the eviction notice dated 21-10-2022 was issued by petitioner No. 1 in the name of Smt. Kusum Gupta by forging her signature. In the absence of such specific averments, the allegations under Sections 468 and 471 of the Indian Penal Code are wholly unsustainable and lack foundational basis. Furthermore, a mere allegation of contravention of the provisions of the Meghalaya Transfer of Land (Regulation) Act, 1971 does not, by itself, give rise to any offence under the Indian Penal Code. Section 9 of the said Act exclusively provides for the penalties in case of violation of Section 7 and sub-section (1) of Section 8 thereof, and no other penal consequences are contemplated under the said Act. The allegations made in the FIR are, therefore, not relatable to, nor covered by, the offences or penalties prescribed under the Meghalaya Transfer of Land (Regulation) Act, 1971.

15. The condition necessary for an act to constitute an offence under Section 420 IPC is that there was dishonest inducement by the accused. No act on part of the petitioners has been alleged in the FIR that discloses an intention on the part of the petitioners to induce the delivery of any property to the petitioners or to any other person. There is, thus, nothing on the face of the FIR to indicate that the petitioners dishonestly induced any person to deliver any property to them. The ingredients necessary to



constitute the offence of cheating is not made out from the face of the FIR and, consequently, no offence under Section 420 IPC is made out.

16. Further, to maintain an FIR or complaint on the allegation of forgery for purpose of cheating and using as genuine a forged document under Section 468/471 IPC, it is mandatory to alleged that the accused has made false document or false electronic record or part of a document or electronic record. It is not the case of the respondent in the present case that the petitioners made false document with intention to use it for the purpose of cheating the respondent No.2 or any other person. Further, there is no allegation that the petitioners have dishonestly and fraudulently made, signed, sealed or executed any particular document or part of a document. There is also no assertion in the FIR that the petitioners have used any particular forged document as genuine.

17. Insofar as the allegation of lodging of earlier FIR dated 22-03-2021 (Enclosure-IV) against the petitioners is concerned, there is nothing on record to show that the said FIR was registered as a regular case and investigated into by the police. No details are stated in the FIR dated 14-03-2023 under challenge in this petition. The rest of the enclosures i.e. Enclosure-I, Enclosure-II and Enclosure-III to the FIR dated 14-03-2023 also contain no material to support the offence alleged in the FIR. It is, therefore, clear that even if the allegation made in the FIR is taken in their face value, none of the ingredients constituting the alleged offence are culled out. Thus, the allegation the FIR appears to be totally frivolous and vexatious.



18. The Apex Court in the case of *Prof. R.K. Vijayasarathy and Another Vs. Sudha Seetharam and Another (2019) 16 SCC 739* observed that where the ingredients required to constitute a criminal offence are not made out from the bare reading of the complaint, the continuation of the criminal proceeding will constitute an abuse of process of the Court. In the present case, as has been observed in the foregoing paragraphs, the allegations made in the FIR do not constitute the ingredients necessary for the offences under Section 420/468/471 IPC. In absence of ingredients necessary to constitute a criminal offence, continuation of investigation on the basis of the impugned FIR dated 14-03-2023 will result in abuse of process of law.

19. In view of the discussions made above, this criminal petition succeeds. The FIR dated 14-03-2023 in Tura PS Case No. 23 (3) of 2023 under Section 420/468/471 IPC stands quashed.

20. The Criminal petition stands allowed.

Judge

Meghalaya
26.11.2025
“Biswarup PS”