

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

...

CRM(M) no.197/2023

Reserved on: 17.09.2025
Pronounced on: 14.10.2025
Uploaded on: 14.10.2025
Whether operative part of
judgement is pronounced: Yes

Ritika Jain and another

.....Petitioner(s)

Through: Mr Pranav Kohli, Senior Advocate with
Ms. Avantika Sharma and Mr. Farhan Mirza, Advocates

Versus

Union Territory of J&K and another

.....Respondent(s)

Through: Mr. Pawan Dev Singh. Dy.AG for Resp.no.1
Mr. Ankur Sharma, Advocate for Resp. no.2.

CORAM:

HON'BLE MR JUSTICE VINOD CHATTERJI KOUL, JUDGE

JUDGEMENT

1. Quashment of FIR no.179 of 2022 registered by police station Bakshi Nagar, Jammu, under Section 420, 467 and 468 of Indian Penal Code (IPC) is sought in exercise of powers vested in this Court under Section 482 of the Code of Civil Procedure (Cr.P.C.).
2. Status report has been filed by respondent no.1 and objections by respondent no.2.
3. I have heard learned counsel for parties and considered the matter.
4. Learned senior counsel appearing for petitioner would contend that issue of veracity of additional Will/Codicil dated 4th May 2021 is already *sub judice* before civil court. There had been apprehension about alienation of property as such the court at Gurugram, Haryana,

restrained defendants – petitioners herein, from alienating or creating any third-party interest in property in question. He would contend that it is complainant/respondent no.2 who has approached civil court averring that no will was executed whereas it is stand of petitioners that will has been executed and, therefore, civil court is already seized of the matter. In such circumstances, respondent no.2 could not have been permitted to file a criminal complaint on the allegation of Will being forged one. Such an issue is to be decided by civil court after recording evidence and hearing the parties in accordance with law and not by using criminal proceedings to harass petitioners which amounts to abuse of process of law. Mr. Kohli has invited attention of this Court to the facts as ingeminated in the instant petition as well that parties are already entangled in a number of civil disputes qua property in question, which are civil suit no.3447 of 2021 titled Nitka Choudhry v. Ritika Jain and others pending before the court of Civil Judge, Gurugram District Court, for partition of estate of Late Mr. Ajay Kumar Jain; Civil Revision Petition no.2213 of 2022 titled Nitika Choudhary @ Nitka Choudhry v. Ritika Jain and others, pending before the High Court of Punjab and Haryana, in which she has challenged order dated 10th May 2022 by virtue whereof application of respondent no.2 under Order XL Rule 1 CPC for appointment of receiver was dismissed; a Company Petition no.40/CHD/HRY of 2022 titled *Nitka Choudhry v. Jai Maa Vaishno Hotel and Resorts Private Limited and others*, pending before the National Company Law Tribunal, Chandigarh, under Section 241, 242 of Companies Act, in which she alleges acts of oppression and mismanagement; and Civil Revision Petition no.827 of 2022 tilted as

Ritika Jain v. Nitka Choudhry and others, pending before the High Court of Punjab and Haryana, in which petitioner no.1 challenges the order dated 21st February 2022, by which her application under Order VII Rule 11 CPC for rejection of plaint was dismissed. According to learned senior counsel, once respondent no.2 failed to get any order in her favour before any of the civil courts, she made use of criminal proceedings, impugned herein, to wreak vengeance against petitioners. Mr. Kohli would also assert that present case is not the only one criminal proceeding set into motion by respondent no.2 against petitioners, but she had also on the same subject matter filed a complaint before police station Sector 65 Gurugram,

5. Impugned FIR, registered on the complaint of respondent no.2, reads as under:

“Sir one complaint received from complainant serial No.06 at this Police Station. The contents of application as under: -To The Station House Officer Bakshi Nagar, Jammu, UT of J&K Nitka Choudhary w/o Naveen Choudhary R/o WW-1002, Grand Arch IREO Sector 58, Gurugram, Haryana Complainant V/s Ritika Jain w/o Lt Sh. Nitin Jain r/o Penthouse no.1. Garden Estate, MG Road, Gurugram, Haryana Sh. Shrawan Kumar Raina S/o Rosha Lal Raina R/o flat no.21, Block no.119, Lane no.20 Mini Township, Jagti Nagrota Jammu Working at: Hotel Jai Maa Inn, Kashmir Road, Katra. Sh. Raghuvir Singh S/o Surat Sing R/o Jammu Working at: Hotel Jai Maa Inn, Kashmir Road, Katra. Sh. Sudhir Gupta S/o unknown R/o III-H-76, Nehru Nagar, Ghaziabad, UP-201001 Accused Subject: Complaint u/s 34, 120B, 420, 463, 464, 465, 468, 471, 506 IPC Sir, Below is the chronology of event. 1. 27.01.2020 Sh.Ajay Jain executed and registered a will vide vasika no.770 at Gurugram, Haryana in favor of his wife namely Smt. Renu Jain wrt to all the movable and immovable properties. 2. 27.01.2020 Smt.Renu Jain executed and registered a will vide vasika no.771 at Gurugram, Haryana in favor of her husband namely Sh.Ajay Jain wrt. to all the movable and immovable properties 3. Mid-April, 2021 Sh. Nitin Jain s/o Sh.Ajay Jain reached Katra where he contracted with COVID-19. 4.18.04.2021 Smt.Renu Jain reached Katra upon learning about the fact that her son contracted with COVID-

19.5.21.04.2021 Sh.Ajay Jain reached Jammu. 6.01.05.2021 Smt.Renu Jain shifted to GMC, Jammu as she was Covid positive. 7. 02.05.2021 Sh. Ajay Jain shifted to GMC, Jammu as he was Covid positive. 8. 04.05.2021 Codicil executed by Sh. Ajay Jain to his last will, which is fraudulent and forged by the accused persons. 9. 06.05.2021 Smt.Renu Jain expired and Sh.Ajay Jain was shifted to GMC, Amritsar. 10. 07.05.2021 Sh.Ajay Jain expired. 11.29.05.2021 Sh.Nitin Jain expired at GMC, Jammu who is survived by his wife and 2 sons. 1. That the complaint is against the forged codicil dated: 04.05.2021 by virtue of which Lt. Sh. Ajay Jain has made an additional statement to his earlier will dated: 27.01.2020 and thereby, all the movable and immovable property stands transferred in favor of his son Nitin Jain (the husband of the accused no.1) and after the demise of Sh. Nitin Jain on 29.05.2021 the ultimate beneficiary is now accused no.1. Copy of alleged codicil dated: 04.05.2021 and Original Wills bearing no. 7708771 is annexed herewith as Annexure: A, B&C. 2. That the complainant is a law abiding citizen. The complainant is the daughter of late Shri Ajay Kumar Jain and the other members of the family are as under: Renu Jain (wife) Nitin Jain (son) Ritika Jain (daughter-in-law/Bhabhi of the complainant) 3. That Ajay Kumar Jain had expired on 07.05.2021. Prior to that, his wife Renu Jain (mother of the complainant) had expired on 06.05.2021 and his son Nitin Jain (brother of the complainant) died on 29.05.2021. 4. That the parents of the complainant had made their respective Wills in favour of each other i.e. the complainant's mother had executed and registered Will bearing Vasika no.770 dated 27.01.2020 in favour of her husband Shri Ajay Kumar Jain (the complainant's father) and Shri Ajay Kumar had executed and registered his Will bearing Vasika number 771 dated 27.01.2020 in favour of Mrs Renu Jain (complainant's mother). Since Mrs Renu Jain expired 06.05.2021 prior to the death of Shri Ajay Kumar Jain, hence all the properties of Mrs.Renu Jain were inherited by Sri Ajay Kumar Jain as per her aforesaid Will. 5. That the accused no. 1 is the wife of the late brother of the complainant namely Nitin Jain, Accused no.1, her minor daughter Amyraa Jain and minor son namely Vyomm Jain are the legal heirs and successors of late Shri Nitin Jain. 6. That as stated above, the Will of Shri Ajay Kumar Jain was in favour of his wife Renu Jain who expired prior to the death of Shri Ajay Kumar Jain, hence, the said Will of Shri Ajay Kumar Jain had become redundant and therefore, all the movable and immovable properties stands transferred in favour of Lt. Sh. Ajay Jain as on 06.05.2021. Further, Sh Ajay Jain expired on 07.05.2021 and therefore, from this event onward, as Per the provisions of Hindu succession act, all the properties and estate left behind by Shri Ajay Kumar Jain and Mrs Renu Jain have to be succeeded by their daughter (complainant) and the son (Lt.Sh.Nitin Jain). 7. That on 29.05.2021 Sh. Nitin Jain expired(brother of complainant and husband of the accused no.1), and therefore, his share was to

be devolved upon his wife(i.e accused no. 1) and his children, however, it was on the occurrence of this incident that the accused no. 1 along-with other accused persons hatched a criminal conspiracy to initiate and brought into force the said forged codicil dated:04.05.2021 by which she stripped the complainant of her legal rights as the complainant after the demise of her parents was and is the lawful co-owner to the extent of 50% of all the immovable and movable properties of her deceased parents. 8. That with totally dishonest motive, accused no.1 hatched a conspiracy in collusion with the other accused persons and started creating hurdles in the peaceful use and enjoyment of the complainant's 50% share in her rightful share. Shri Ajay Kumar Jain was running business as proprietor of M/s Auto precision industry and accused no.1 started misappropriating the income of said business although the complainant has 50% share in the said business and its income. Under these circumstances the complainant was forced to file a civil suit as on 25.10.2021 for declaration, partition etc. titled "Nitika Chaudhary v/s Ritika Jain and others" which is pending in the court Civil Judge, Gurugram, Haryana and finally after hearing both the sides the Hon'ble court as on 10.05.2022 was pleased to restrain the defendant (accused no. 1) from creating third party rights and from withdrawing the funds in the account to the extent of 50% amount lying, as on the date of death of deceased. 9. That the complainant it was for the first time that during the pendency of the suit that the accused no.1 disclosed about the codicil dated 04.05.2021 allegedly stated to have been executed by Late Shri Ajay Kumar Jain. The complainant was shocked to know about it and she filed an application in the said suit for directing the defendants to produce the said original codicil in the court. 10. That the aforesaid codicil is false and fabricated codicil on the face of it appears to be an outcome of criminal intent and motive, and therefore, needs to be thoroughly investigated on the following grounds: a) That Lt. Sh. Ajay Jain was admitted in the COVID ward of GMC, Jammu from 02.05.2021 to 06.05.2021 and thereafter, was shifted to Amritsar for further treatment. That the alleged codicil was made on 04.05.2021 at the point of time when Lt. Sh. Ajay Jain was in the worst of his health condition while battling with Corona and therefore, neither the signature on the codicil is of it. Sh. Ajay Jain nor he was in the mental condition to even think about the same, let alone the signing of the alleged codicil. b) That more suspiciously, Lt. Sh. Ajay Jain was in the same ward as it. Smt. Renu Jain, also driver Raju was there as an attendant who was looking after it. Sh. Ajay Jain and the accused no. 1 was in the same hospital i.e. GMC hospital as well, and assumingly, even if it. Sh. Ajay Jain had to execute the said codicil then in that case he could have made his wife, driver Raju, or the accused no.1 as one of the attesting witnesses who were immediately present there to facilitate the same, but that has not happened in the present case and

on the contrary, accused no. 2&3 had been made the attesting witnesses who are the employees of the accused no.1 and are working at Hotel Jai Maa Inn, Katra. c) That it needs to be investigated that during the time when Lt. Sh. Ajay Jain was in the COVID ward, then when and to whom did Lt. Sh. Ajay Jain instructed to draft the said codicil and as to how were the two marginal witnesses along with the notary were allowed to be entered into the COVID ward, when strictly at that point of time no visitors were allowed other than the designated family attendant, casts doubt on the genuinity of the codicil. d) That most interestingly, the said codicil has been attested by the said notary who has attested execution & contents of the codicil, meaning thereby, that either the notary had visited the COVID ward, (which was circumstantially not possible) or Lt. Sh. Ajay Jain had visited the notary and therefore, this point needs to be investigated in depth. That since the death of Lt. Sh. Ajay Jain and Lt. Sh. Nitin Jain, the complainant and the accused no.1 had few meetings regarding legal distribution of property and during that entire time the accused no.1 never made a mention of the said codicil to the complainant. That one of the family friend of the Lt. Sh. Ajay Jain namely Sh. Yashwant Sharma who is also one of the attesting witness to the registered wills dated: 27.01.2020 executed by deceased Sh. Ajay Jain and Smt. Renu Jain, had filed an affidavit before the civil court at Gurugram, wherein he had stated that he had disclosed the factum of registered Wills to the complainant and accused no.1 in June, 2021 at DLF club, phase-S, Gurgaon and at that time defendant no.1 had never revealed about the alleged codicil dated 04.05.2021 to have been executed by Lt. Sh. Ajay Jain. Copy of affidavit is and whatsapp chat which shows Mr. Yashwant Sharma as part of the aforesaid meeting is annexed as Annexure: D&E. f) That further during the aforesaid period the complainant and the accused no.1 were in constant touch with each other over the calls and whatsapp messages and it is clear that the accused no.1 had never brought this fact to the knowledge of the complainant about the execution of the alleged codicil even in the chats. g) That the accused no.1 had on the basis of the alleged codicil dated: 04.05.2021 had even managed to incorporate her name and accused no.4 (her Brother-in-law) as directors and also the accused no.1 as shareholder along-with her children in M/s Jai Maa Vaishno Hotels and Resorts Pvt. Ltd at Katra whereas the concerned person at the Registrar of Companies, Jammu should have had satisfied themselves to the hilt so as to find out that if any other person or legal heir may have claim/right to be incorporated as a director of the company but in the present case the procedure seems to have not been followed in its letter and spirit. Copy of Master Data/list of directors and list of shareholders is annexed as Annexure: F&G. That keeping in view the above facts and submissions, it is crystal clear that the accused no.1 had hatched a well afterthought conspiracy with the other two favourable accused persons at

a much later stage so as to strip the complainant of her legal right to inherit the 50% share in her late parent's estate and therefore, it is requested to kindly initiate the threadbare investigation and book the accused persons under relevant sections of IPC or any other applicable law. Nitka Choudhary.... As per application offences U/S 420/467/468 IPC have been made out. Hence a special reported case has been registered and investigation entrusted to SI Shakil Ahmed.”

6. From perusal of contents of impugned FIR, it is profoundly demonstratable that parties are before civil court with respect to the documents that according to complainant/respondent no.2 are forged, well before filing of complaint and registration of impugned FIR. On 25th October 2021, complainant/respondent no.2 filed a civil suit no.3447 of 2021 for partition of estate of Late Ajay Kumar Jain. Her claim in that plaint is that she is entitled to 50% of estate of Late Ajay Kumar Jain while remaining 50% portion devolves upon Mrs. Ritika Jain, Master Vyomm Jain and Ms. Amayraa Jain equally. In that suit, defendants – petitioners herein have caused their appearance and submitted their stand.
7. Perusal of the file would also divulge that complainant/respondent no.2 had earlier made a complaint. On 10th May 2022 the court of Civil Judge, Gurugram District Court, disposed of application filed by respondent no.2 under Order XXXIX Rule 1&2 of the Code of Civil Procedure (CPC) directing parties to maintain status quo as regards possession and title of immovable properties. Besides petitioner, Mrs. Ritika Jain, had been permitted to carry on business and she was also restrained from withdrawing 50% of funds lying in bank accounts of Mr. Ajay Jain and Mrs. Renu Jain. On 10th August 2022, petitioner no.1 and respondent no.2 had been referred to Mediation by the High Court

of Punjab and Haryana in Civil Revision no.213 of 2022. Nevertheless, in October 2022, respondent no.2 filed another criminal complaint before police station Bakshi Nagar, Jammu, alleging acts of forgery of WILL/Codicil, on which impugned FIR came to be lodged.

It is, thus, palpably obvious that notwithstanding the fact that parties were already before civil courts and even mediation proceedings were pending before the High Court of Punjab and Haryana, respondent no.2 got lodged impugned FIR on the same-subject matter.

On 23rd August 2021, respondent no.2 issued and served a legal notice through her counsel upon petitioners claiming 50% share in Estate of Late Ajay Kumar Jain.

On 25th October 2021, respondent no.2 filed a civil suit no.3447 of 2021 for partition. In the said suit, respondent no.2 claims that she is entitled to 50% of estate of Late Ajay Kumar Jain. Petitioner no.1 put in attendance in the said civil suit and filed an application under Order VII Rule 11 of Code of Civil Procedure (CPC), in which she made reference to Will/Codicil.

On 10th January 2022, respondent no.2 made a criminal complaint before police station Sector 65, Gurugram, alleging acts of forgery of additional Will/ Codicil.

On 10th May 2022, the Civil Judge, Gurugram District Court, disposed of application under Order XXXIX Rule 1&2 CPC filed by respondent no.2, directing maintaining of status quo vis-à-vis possession and title of immovable properties. Petitioner no.1 was permitted to carry on business under the name and style of M/s Auto Precision Industries and Jai Maa Vaishno Hotel and Resorts Private

Limited and she was restrained from withdrawing 50% of funds lying in the bank accounts of Late Ajay Kumar Jain and Mrs. Renu Jain.

On 10th August 2022, parties were referred to mediation by the Punjab and Haryana High Court in Civil Revision no.2213 of 2022.

From the above facts, it is apparent that civil courts, besides High Court of Punjab and Haryana, are seized of the question as regards validity of Will/Codicil. The matter(s) is/are sub judice in the aforesaid courts. Thus, respondent no.2 cannot be permitted to institute a criminal case on allegation that will/codicil is forged one. That question will have to be decided by civil court after recording evidence and hearing parties in accordance with law. It would not be appropriate to permit respondent no.2 to prosecute petitioners on this allegation when validity of Will/Codicil is being tested before civil courts.

Such a practice is not worth appreciation. Such practice has also been denounced by the Supreme Court in canons of judgements and, therefore, demand indulgence and interference by this Court. Reference in view of above is imperative to be had from *Sardool Singh and another v. Nassib Kaur*, 1987 SCC CRI 672; *Tukaram Annaba Chavan v. Machindra Yeshwant Patil*, (2001) 3 SCC 33; *M. Srikanth v. State of Telangana and another*, 2019 SCC (10) 373; *Usha Chakraborty and others v. State of West Bengal and others*, AIR 023 SC 688; *Surjeet Singh v. State and another* 2001 SCC Online J&K 42; judgement dated 18th May 2023 passed by a Bench of this Court in CRMC no.73/2012 titled as *Ranjit Kalara and others v. Romala Kapoor*.

8. A reference has been made to judgement dated 29th April 2025, passed by the Supreme Court in Criminal Appeal no.1834 of 2025 titled as

Punit Beriwalla v. State of NCT of Delhi and others. The said case relates to sale agreement executed but possession not handed over. The Supreme Court has made reference to *M/s Nanak Builders and Investors Pvt. Ltd v. Sh. Vinod Kumar Alag, ILR (1991) 1 Delhi*, in which it was held “*Mere heading or title of a document cannot deprive the document of its real nature. Law is well settled in such matters that it is the substance which has to be seen and not the form, the document though titled as a ‘receipt’ contains all the essential ingredients of a ‘contract’ and therefore this is a contract and the plaintiff can seek performance thereof*”. Thus, this judgement is distinct to the facts of the case in hand.

9. Another judgment cited is in the case of *Syed Askari Hadi Ali Augustine Imam and another v. Sate (Delhi Admn.) and another, 2009 (4) Supreme 222 : 2009 (5) SCC 528*. In the said case, FIR was not lodged only with regard to forgery of Will but also with respect to cause of action of a trespass. It has been in clear cut terms said by the Supreme Court at paragraph 14 that it is possible that even if Will is found to be genuine and that no case under Section 468 IPC was found to have been made out, yet accused/appellant therein might be convicted for commission of other offences for which he had been charged against, namely, trespass in the property and that if it was found that accused was guilty of trespass, he might be asked to hand over possession of premises in question to complainant. Thus, again the judgement cited is distinguishable in facts and circumstances of the present case. So are the cases of *M.S. Sheriff and another v. State of Madras and others, 1954 Supreme (SC) 52; Gur Dayal v. State of J&K and another, 2018*

Supreme (J&K) 817; and Jai Prakash Gupta v. State of UP and another, 2021 Supreme (All).

10. In the above backdrop, it would be appropriate to say that provisions of Section 482 of Cr.P.C. provide for inherent powers to the High Court, which is noticed as under:

“482. Saving of inherent powers of High Court. —

Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.”

11. Exercise of powers under Section 482 Cr.P.C., thus, envisages three circumstances in which inherent jurisdiction may be exercised, namely, (i) to give effect to an order under the Code; (ii) to prevent abuse of the process of court; and (iii) to otherwise secure the ends of justice. It is well settled that inherent jurisdiction under Section 482 Cr.P.C. is designed to achieve a salutary purpose and that criminal proceedings ought not to be permitted to degenerate into a weapon of harassment. When the Court is satisfied that criminal proceedings amount to an abuse of process of law or that it amounts to bringing pressure upon accused, in exercise of the inherent powers such proceedings can be quashed.

12. In *State of Haryana and others v. Bhajan Lal and others* 1992 Supp (1) SCC 335, the Supreme Court considered the scope of inherent powers of the Court and after referring to earlier decisions, the Supreme Court enumerated the following categories of cases by way of illustration where the extraordinary jurisdiction under Article 226 of the

Constitution of India or the inherent powers under Section 482 of the Code of Criminal Procedure can be exercised by the High Court to prevent abuse of process of Court or otherwise to secure ends of justice:-

“(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 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.”

13. A three-Judge Bench of the Supreme Court in *State of Karnataka v. M.*

Devenderappa and another, 2002 (3) SCC 89, had an occasion to

consider the ambit of Section 482 Cr.P.C. By analysing the scope of

Section 482 Cr.P.C., the Apex Court has laid down that the authority of the Court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the Court has power to prevent abuse. It has further held that the Court would be justified to quash any proceeding if it finds that the initiation/ continuance thereof amounts to the abuse of the process of the Court or quashing of these proceedings would otherwise serve the ends of justice. Following was laid down in paragraph 06:

“6.....All courts, whether civil or criminal possess, in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in course of administration of justice on the principle *quando lex aliquid alicui concedit, concedere videtur et id sine quo res ipsae esse non potest* (when the law gives a person anything it gives him that without which it cannot exist). While exercising powers under the section, the court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised *ex debito justitiae* to do real and substantial justice for the administration of which alone courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.”

14. It would also be worthwhile to reproduce paragraph 8 infra:

“8.....Judicial process should not be an instrument of oppression, or, needless harassment. Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into

consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death. The scope of exercise of power under Section 482 of the Code and the categories of cases where the High Court may exercise its power under it relating to cognizable offences to prevent abuse of process of any court or otherwise to secure the ends of justice were set out in some detail by this Court in *State of Haryana v. Bhajan Lal* (AIR 1992 SC 604).”

15. The Supreme Court in the case of *Indian Oil Corporation v. NEPC India Ltd. and others*, (2006) 6 SCC 736, has summarized the principles about exercise of jurisdiction under Section 482 Cr.P.C. to quash complaints and criminal proceedings as under: -

“The principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings have been stated and reiterated by this Court in several decisions.

To mention a few - *Madhavrao Jiwajirao Scindia v. Sambhajirao Chandojirao Angre* (1988) 1 SCC 692, *State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335; *Rupan Deol Bajaj v. Kanwar Pal Singh Gill* (1995) 6 SCC 194, *Central Bureau of Investigation v. Duncans Agro Industries Ltd* (1996) 5 SCC 591; *State of Bihar v. Rajendra Agrawalla* (1996) 8 SCC 164, *Rajesh Bajaj v. State NCT of Delhi*, (1999) 3 SCC 259; *Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd* (2000) 3 SCC 269 [pic] *Hridaya Ranjan Prasad Verma v. State of Bihar* (2000) 4 SCC 168, *M. Krishnan v. Vijay Singh* (2001) 8 SCC 645 and *Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque* (2005) 1 SCC 122. The principles, relevant to our purpose are:

(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 legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint 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 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.”

16. In the case of *Vesa Holdings Pvt. Ltd and another v. State of Kerala and others*, reported in (2015) 8 SCC 293, the Supreme Court has observed that the real test is whether allegations in a complaint disclose criminal offence of cheating or not. If there is nothing to show that there was any inception on behalf of an accused person to cheat which is a condition precedent for an offence under Section 420 IPC. Criminal proceedings should not be encouraged when it is found to be *mala fide* or otherwise an abuse of the process of the courts. Superior courts while exercising this power should also strive to serve the ends of justice. Allowing police investigation to continue would amount to an abuse of the process of the court and that the High Court committed an error in refusing to exercise the power under Section 482 Cr.P.C. to quash the proceedings.

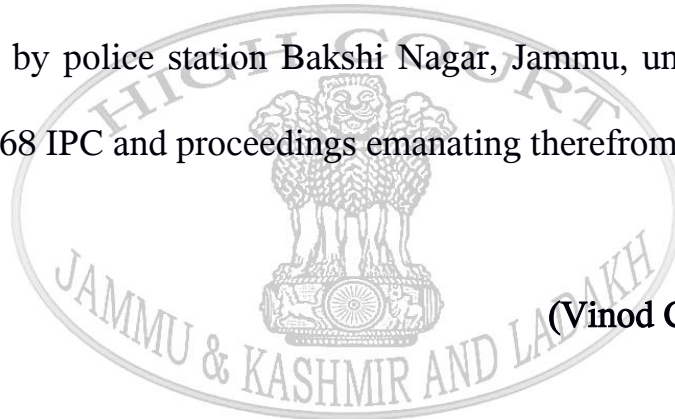
17. The principles laid down by the Supreme Court are that a complaint can be quashed where allegations made in complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out the case alleged against the accused. For this purpose, complaint has to be examined as a whole, but without examining merits of allegations. Neither a detailed inquiry nor a meticulous analysis of material nor an assessment of reliability or genuineness of allegations in a complaint, is warranted while examining prayer for quashing of a complaint. A complaint can also be quashed where it is a clear abuse of process of court, as when 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. The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution. The complaint 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 complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.
18. In case of *Binod Kumar v. State of Bihar*, (2014) 10 SCC 663, the Supreme Court reiterated the principle of law that criminal proceedings are not to be used as a shortcut for civil remedies and/or as a tool to settle scores in civil matters, and such misuse amounts to abuse of process. There is an impression that civil law remedies are time consuming and

do not adequately protect interests of parties and such a tendency is seen in several family disputes also that leads to irretrievable breakdown of families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution, should be deprecated and discouraged. It is pertinent to mention here that misuse of criminal law machinery to seek relief in disputes of a civil nature by invoking false charges and exploiting legal precedents has become rampant. This practice leads to vexatious and oppressive litigation, undermining the integrity of legal system. For immediate settlement of civil disputes, it has nowadays become a normal to pressurise other-side by weaponizing criminal proceedings as a bargaining chip.

19. The Supreme Court has said that it is the duty of High Court to intervene where continuation of criminal proceedings would amount to an abuse of process of law or where dispute is purely of a civil nature and criminal colour has been artificially given to it. The conclusion which can be drawn essentially stipulates that courts have time and again deprecated the initiation of false criminal proceedings in cases having the element of civil dispute. Regard being had to *Anukul Singh v. State of U.P. and another, reported as 2025 INSC 1153 : 2025 LiveLaw (SC) 948 : 2025 SCC Online SC 2060*.
20. The instant issue squarely falls within the category of civil dispute, but respondent no.2 has given it a criminal colour by filing a complaint by lifting from the penal laws certain words and phrases and has implanted

them in the criminal complaint. As observed above, civil cases are pending before the parties. Petitioners' claim is that Will/Codicil has been executed by testator whereas claim of respondent no.2 there is no will/codicil executed in favour of petitioners. The civil court is seized of the question as regards validity of will/codicil. Parties are also even before the High Court of Punjab and Haryana on the same subject-matter. In such circumstances, respondent no.2 cannot be permitted to institute criminal prosecution on the allegation that will is forged one. That question is to be decided by civil court after recording evidence and hearing the parties in accordance with law. If at the conclusion of civil case, it comes to fore that the document, viz. will/codicil is a forged one, complainant/respondent no.2 will be free to initiate criminal proceedings.

21. For the foregoing reasons, this petition is **allowed**. FIR no.179 of 2022 registered by police station Bakshi Nagar, Jammu, under Section 420, 467 and 468 IPC and proceedings emanating therefrom are **quashed**.



(Vinod Chatterji Koul)
Judge

Jammu
14.10.2025
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Whether approved for reporting? Yes/No.