



2025:UHC:11452

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc. Application U/s 482 No. 1030 of 2023

22 December, 2025

Swati Vaish & another

--Applicants

Versus

State Of Uttarakhand & another

--Respondents

Presence:-

Mr. Lalit Sharma, learned counsel for the applicants.

Mr. S.C. Dumka, learned AGA for the State.

Mr. Lalit Miglani, learned counsel for respondent no.2.

Hon'ble Pankaj Purohit, J. (Oral)

By means of present C482 application, applicant has put to challenge the Charge-sheet dated 29.01.2023; cognizance and summoning order dated 17.02.2023 as well as the entire proceedings of Criminal Case No.1163 of 2023, *State vs. Swati Vaish & another*, under Sections 120-B, 420 & 506 IPC, pending in the court of learned Chief Judicial Magistrate, Dehradun.

2. The brief facts of the case are that respondent No. 2 lodged an FIR on 15.11.2020 against the applicant, alleging that an agreement dated 09.01.2019 was executed by applicant no. 1 in favour of respondent no. 2 for the shop in question for a sale consideration of Rs.90 lakhs. As per Condition No.2 of the said agreement, the applicant was required to raise four pillars at the four corners of the two shops and to construct a three-storey building above the shop in question, thereafter selling two shops to the respondent no.2. It is further alleged in the FIR that respondent no.2 paid a sum of



Rs.15,50,000/-to the applicant no.1; however, the applicant no.1 failed to raise construction over the property in question. It is also alleged that the applicant no.1 failed to perform her part of the contract and committed fraud with respondent no.2 and also threatened him.

3. After lodging of the first information report, the Investigating Officer submitted the charge-sheet on 29.01.2023. Thereafter, learned Chief Judicial Magistrate, Dehradun took cognizance on the said charge-sheet and summoned the applicants to face the trial under Sections 420, 506 & 120-B IPC on 17.02.2023.

4. Learned counsel for the applicants submits that the dispute is purely civil in nature and has been given a colour of criminality by respondent no. 2 solely to harass the applicants. He further submits that, for the purpose of establishing the offence of cheating, the complainant is required to show that the accused had fraudulent or dishonest intention at the time of making the promise or representation. However, in the present case, neither has it been alleged that the intention of the applicant no.1 at the time of entering into the agreement to sell was dishonest, nor is such intention evident from the facts and circumstances of the case. Rather, it is conversely apparent that the intention of the applicant no.1 at the time of entering into the agreement to sell was completely honest, as part of the said agreement was even performed. Thus, the subsequent breach of the agreement to sell does not constitute an offence under Section 420 IPC.



5. Respondent No. 2 has filed his counter affidavit. In the counter affidavit, it has been stated that the applicants have engineered various documents, including the copy of the agreement dated 09.01.2019 (at page 20 of the application), wherein the receipt of Rs. 5,50,000/- in the handwriting of Respondent No. 2, along with the signatures of the witnesses, has been wiped off in the copy annexed to the application as well as in the civil suit. It is further alleged that the applicants have fabricated the legal notice dated 16.10.2020 and filed a false civil case in order to mislead the authorities as well as the court of law by presenting totally false facts and concealing the actual ones.

6. It is further stated that the charge-sheet has been submitted after considering every aspect of the matter, and that the applicants have failed to point out any illegality or infirmity in the impugned summoning orders or in the impugned proceedings.

7. The applicants, in their rejoinder affidavit, have denied the averments made in the counter affidavit.

8. Heard learned counsel for the parties and carefully perused the material available on record.

9. The inherent powers of this Court under Section 482 Cr.P.C. are to be exercised to prevent abuse of the process of the Court and to secure the ends of justice. It is well settled that criminal proceedings arising out of a purely civil dispute, particularly relating to contractual obligations, should not be allowed to continue where the essential ingredients of the alleged offences are not made out.



10. From a perusal of the FIR as well as the charge-sheet, it is evident that the dispute between the parties arises out of an agreement to sell dated 09.01.2019. The allegations primarily relate to non-performance of the terms of the agreement and alleged failure to raise construction as promised. Such allegations, even if taken at their face value, disclose a breach of contract, which by itself does not constitute the offence of cheating under Section 420 IPC. On the contrary, part performance of the agreement has been admitted, which clearly negates the existence of any initial fraudulent intent.

11. As regards the allegation under Section 506 IPC, the same is vague and general in nature and does not disclose the necessary ingredients of criminal intimidation. Similarly, the material on record does not disclose any prima facie case of criminal conspiracy under Section 120-B IPC.

12. The allegations made by respondent no.2 in the counter affidavit pertain to disputed questions of fact, which essentially relate to the genuineness of documents and civil liability arising out of the agreement. Such disputed questions cannot be adjudicated in criminal proceedings and are more appropriately triable by a civil court.

13. This Court finds that the continuation of the criminal proceedings against the applicants would amount to an abuse of the process of law and would cause undue harassment to them. The dispute being predominantly civil in nature, the criminal proceedings have been initiated with an oblique motive to pressurize



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the applicants. Thus, the present C482 application deserves to be allowed.

14. Accordingly, the present C482 application is allowed. The charge-sheet dated 29.01.2023, cognizance and summoning order dated 17.02.2023, and the entire proceedings of Criminal Case No. 1163 of 2023, *State vs. Swati Vaish & another*, pending before the learned Chief Judicial Magistrate, Dehradun, are hereby quashed.

15. Pending application, if any, stands disposed of accordingly.

(Pankaj Purohit, J.)
22.12.2025

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