



IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Criminal Misc.Application No.817 of 2025

Sri Pramod Tiwari

.....Applicant

Vs.

State of Uttarakhand and Anr.

.....Respondents

Presence:

Mr. Jai Krishna Pandey, learned counsel for the Applicant.

Mr. Vipul Painuly, learned A.G.A., for the State/1.

Mr. Lalit Sharma, learned counsel for the Respondent No.2.

Hon'ble Ashish Naithani, J.

1. The present application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, has been filed by the Applicant, Abdul Malik Khan, seeking quashing of the entire proceedings of Criminal Case No. 817 of 2023, arising out of FIR No. 252 of 2022, registered at Police Station Jwalapur, District Haridwar, under Sections 420, 467, 468, 471, and 120-B of the Indian Penal Code.
2. According to the FIR lodged by Respondent No. 2, Zulfikar Ali, the dispute pertains to land situated at Mauza Jwalapur, Tehsil and District Haridwar, bearing Khasra Nos. 1068M and 1070M. The Informant alleges that he is the rightful owner of the said land, which had been inherited from his father and had been in his possession for a considerable period.
3. However, it is alleged that the Applicant and the other co-accused persons fraudulently prepared forged documents, including an alleged agreement to sell, in order to claim title over the said land.
4. It is further alleged that using such fabricated documents, the accused persons sold the land to unsuspecting third parties and sought mutation entries in their favour in the revenue records, thereby ousting the rightful owner and



causing wrongful loss to him. The FIR names the Applicant along with others, including Naeem Khan and other associates, and attributes a deliberate and organized conspiracy to usurp land through dishonest means.

5. Upon conclusion of the investigation, the police filed a charge- sheet implicating the Applicant and co-accused persons for the aforementioned offences. The case is presently pending as Criminal Case No. 817 of 2023 before the competent Magistrate at Haridwar.
6. Learned counsel for the Applicant submitted that the impugned criminal proceedings are nothing more than a misuse of the criminal justice machinery to exert undue pressure in a matter that is, at its core, civil in nature. It was contended that the Applicant had entered into lawful transactions concerning the property in question, based on registered documents which were executed openly and without concealment. The documents relied upon by the Applicant had been executed before the competent authorities and were part of the public record. Hence, the allegation that the Applicant prepared or used forged documents is unfounded and baseless.
7. It was further urged that the Informant, Zulfikar Ali, has raised a title dispute disguised as a criminal case. Even if the allegations of rival claims over the same property are assumed to be true, the appropriate forum for resolution is the civil court. The criminal law, it was submitted, cannot be invoked to settle scores in a property ownership dispute where civil remedies are available and have not been exhausted. Reliance was placed on the settled principle that where a dispute is essentially of a civil nature, involving ownership, possession, or title, criminal prosecution is unwarranted unless there is clear and cogent evidence of fraudulent intent from the inception of the transaction.
8. Learned counsel contended that none of the essential ingredients of the offences alleged, namely Sections 420, 467, 468, 471, and 120-B IPC, are disclosed in the FIR or the charge sheet.
9. It was submitted that there is no material on record to demonstrate that the Applicant forged any document or knowingly used a forged document as



genuine. Further, there is no averment that the Applicant dishonestly induced the Informant to deliver any property or to part with possession thereof based on deception. In the absence of such specific factual allegations, the essential ingredients of the offence of cheating under Section 420 IPC are not satisfied.

10. As regards the charges of forgery under Sections 467 and 468 IPC, it was submitted that there is no forensic or documentary evidence to establish that the documents relied upon by the Applicant are false or fabricated. The revenue entries were made pursuant to the prescribed official procedure, and the mutation process followed the registration of documents in favour of the purchasers. It was further contended that there is no allegation of the Applicant having impersonated any person, or of forging any handwriting or signature, intending to cause damage or injury. Therefore, the invocation of forgery provisions is wholly unwarranted.
11. On the charge under Section 471 IPC, it was argued that even assuming the documents were forged, there is no evidence to show that the Applicant had knowledge of such forgery or used the said documents fraudulently. In the absence of the foundational element of mens rea, no offence under Section 471 IPC can be sustained. It was urged that the Applicant had no role in the alleged fabrication, nor did he conspire with others to commit any criminal act.
12. On the charge of criminal conspiracy under Section 120-B IPC, learned counsel submitted that there is no material on record to establish the existence of any prior meeting of minds or common design to commit an unlawful act. It was submitted that vague and omnibus allegations have been made without any specificity, which is impermissible in law. A bald assertion of conspiracy, without supporting evidence, cannot be the basis for prosecution.
13. Lastly, it was submitted that the continuation of proceedings against the Applicant would cause grave injustice and mental agony, especially when the dispute is capable of adjudication by a civil court.
14. Per contra, learned counsel for Respondent No. 2 submitted that the FIR and the materials collected during the investigation clearly reveal that the



Applicant and other co-accused persons had entered into a well-orchestrated conspiracy to dispossess the Informant of his lawful property through deceit and manipulation of public records. It was pointed out that the documents relied upon by the Applicant were not only false but were also procured through misrepresentation and were never executed by the lawful owner of the property. The Informant had never entered into any sale agreement with the Applicant or his associates.

15. It was further contended that the sale deeds relied upon by the Applicant were based on forged agreements and fraudulent mutation orders. The investigation revealed that the documents bore signatures that did not match those of the Informant and that fictitious individuals were presented as executants. The fraud, therefore, was not incidental but premeditated, to grab valuable land in the heart of Haridwar. It was submitted that the manipulation of revenue records and the sale of land to third parties on the strength of forged documents constitute grave offences, and the matter ought to be tested through a full-fledged trial.
16. It was urged that the Applicant is attempting to secure immunity from prosecution by cloaking the criminal acts as civil in nature, which is impermissible. The trial court has taken cognizance after considering the evidence collected during the investigation, and the charge sheet contains sufficient material to proceed to trial. It was submitted that the matter is at a nascent stage and all factual disputes can be resolved only after the appreciation of evidence before the trial court.
17. Learned counsel for the State endorsed the submissions of Respondent No. 2 and submitted that the FIR was promptly lodged and the investigation was conducted in accordance with the law. The materials on record establish a prima facie case against the Applicant for the offences alleged, and there exists no ground for interference under the limited jurisdiction of Section 528 BNSS. It was urged that the application is devoid of merit and is liable to be dismissed.
18. Heard learned counsel for the Parties and perused the records.



19. At this stage, this Court is not required to enter into an adjudication of the truth or veracity of the allegations, nor is it expected to weigh the sufficiency of evidence. The jurisdiction under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, which is *pari materia* to the erstwhile Section 482 CrPC, is to be exercised sparingly, and only in cases where the proceedings are palpably frivolous, malicious, or where the allegations do not make out any offence, even if taken at face value.
20. The contention of the Applicant that the dispute is purely civil in nature is not sustainable in light of the serious allegations of forgery, impersonation, and manipulation of revenue records.
21. In the present case, the documents relied upon by the Applicant and the manner of their execution raise questions which are essentially factual in nature and can only be examined during trial. Whether the Applicant had knowledge of the forgery, or whether he knowingly used forged documents, are matters which require evidentiary scrutiny and cannot be pre-emptively decided in proceedings under Section 528 BNSS.
22. Further, this court is also of the view that the mere availability of a civil remedy cannot be a ground to quash criminal proceedings where the allegations disclose the commission of cognizable offences. The Hon'ble Supreme Court has consistently held that the existence of a civil dispute does not preclude the institution or continuation of a criminal case if the ingredients of the offence are otherwise made out. The overlapping of civil and criminal remedies does not detract from the criminality of the act where fraud or forgery is involved.
23. The Applicant shall have a full opportunity to contest the charges and cross-examine witnesses during the trial. At this stage, however, no ground is made out for quashing the proceedings, and this Court finds no reason to exercise its extraordinary jurisdiction to interdict the course of criminal law.

ORDER

In view of the foregoing discussion and having regard to the nature of the allegations, the material collected during the investigation, and the stage of the



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proceedings, this Court is of the considered opinion that no case is made out for interference under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

Accordingly, the Criminal Miscellaneous Application is hereby dismissed.

(Ashish Naithani J.)

Dated:05.08.2025

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