



2025:UHC:11526

Judgment Reserved on: 20.11.2025

Judgment Pronounced on: 23.12.2025

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition (Criminal) No.812 of 2024

Anoop Agrawal and Ors

.....Petitioners

Vs.

State of Uttarakhand and Ors.

.....Respondents

Presence:

Mr. P.N. Mishra, learned Senior Advocate, assisted by Mr. Aditya Singh, Mr. Alok Kumar Pandey, Mr. Aakash Sanyal, learned counsel for the Petitioners.

Mr. Vijay Khanduri, learned Brief Holder, for the State of Uttarakhand.

Mr. Piyush Garg, Ms. Priyanka Agarwal, learned counsel for the Respondent.

Hon'ble Ashish Naithani, J.

1. The present writ petition has been instituted by the Petitioners under Article 226 of the Constitution of India assailing the order dated 20.09.2022 passed by the learned Additional Chief Judicial Magistrate, Kashipur, District Udham Singh Nagar, in Miscellaneous Application No. 630 of 2021, whereby an application moved by Respondent No. 3 under Section 156(3) CrPC was allowed, leading to registration of FIR No. 0601 of 2022 dated 23.09.2022 at Police Station Kashipur for offences under Sections 420, 467, 468 and 471 IPC.
2. The genesis of the dispute lies in eleven registered sale deeds executed between the years 1997 and 2009 by late Shri Mahesh Kumar Agrawal in favour of the Petitioners. The earliest sale deed is dated 27.03.1997, nine sale deeds were executed in the year 2004,



- and the last sale deed was executed in the year 2009. All the said sale deeds are registered documents.
3. Late Shri Mahesh Kumar Agrawal, the executant of the sale deeds, expired in the year 2010. Respondent No. 3 is his widow. For more than a decade after the death of the executant, no civil proceedings were initiated challenging the validity, execution or genuineness of the sale deeds.
 4. On 18.08.2021, Respondent No. 3 submitted a written complaint at Police Station Kashipur alleging that the sale deeds in question were forged and had been executed by impersonation. The complaint was also forwarded to the Senior Superintendent of Police. No FIR was registered pursuant thereto.
 5. Thereafter, Respondent No. 3 filed an application under Section 156(3) CrPC before the Court of the learned Additional Chief Judicial Magistrate, Kashipur, seeking a direction for registration of an FIR against the Petitioners.
 6. The said application was dismissed by the learned Magistrate by order dated 30.11.2021, recording a prima facie finding that no cognizable offence was made out and that the allegations appeared to be civil in nature.
 7. Aggrieved by the said rejection, Respondent No. 3 approached this Court by filing WPCRL No. 38 of 2022. By judgment dated 18.08.2022, this Court set aside the order dated 30.11.2021 and remanded the matter to the Magistrate for fresh consideration, with a specific direction to examine the documents relied upon by the complainant and to pass a reasoned speaking order.
 8. Upon remand, the learned Magistrate, by the impugned order dated 20.09.2022, allowed the application under Section 156(3) CrPC and directed registration of an FIR, pursuant to which FIR No. 0601 of 2022 was registered on 23.09.2022.



9. The Petitioners thereafter approached this Court by filing the present writ petition. During the pendency of the proceedings, interim protection from arrest was granted, subject to cooperation with the investigation.
10. Learned senior counsel for the Petitioners submitted that the impugned order dated 20.09.2022 suffers from complete non-application of judicial mind and is a mechanical reiteration passed in disregard of the directions issued by this Court in WPCRL No. 38 of 2022.
11. It was contended that the learned Magistrate failed to examine the effect of the registered sale deeds, despite a specific mandate to do so. All eleven sale deeds are registered instruments executed over a span of twelve years, and there is no report from the office of the Sub Registrar suggesting impersonation or forgery at the time of registration.
12. Learned senior counsel for the Petitioner submitted that the application under Section 156(3) CrPC was moved after an inordinate and unexplained delay. The executant of the sale deeds expired in the year 2010, whereas the criminal law was set in motion only in the year 2021. Such a belated invocation of criminal jurisdiction, without any explanation, renders the allegations inherently suspect.
13. It was argued that none of the sale deeds were ever challenged by Respondent No. 3 or by the executant during his lifetime by way of a suit for declaration or cancellation. Even after the death of the executant, no civil proceedings were instituted. Initiation of criminal proceedings in such circumstances amounts to misuse of the criminal process to overcome the bar of limitation applicable to civil remedies.



14. Learned senior counsel on behalf of Petitioner further submitted that the entire foundation of the complaint rests upon a private handwriting expert opinion obtained by Respondent No. 3 in the year 2021, examining only four sale deeds and that too long after the death of the executant. It was urged that an expert opinion is merely an opinion evidence and cannot, by itself, form the basis for directing registration of an FIR.
15. Reliance was placed on judgments of the Supreme Court to submit that delay in lodging a complaint, particularly where it remains unexplained, is a vital circumstance while examining whether criminal proceedings are an abuse of process.
16. Learned senior counsel for the Petitioner also submitted that the dispute, even if taken at face value, is essentially civil in nature, arising out of registered property transactions, and that criminal proceedings have been initiated with an oblique motive to harass the Petitioners and to exert pressure in a long-standing family and property dispute.
17. Learned counsel appearing for Respondent No. 3 opposed the writ petition and submitted that allegations of forgery and impersonation constitute cognizable offences, and merely because the documents are registered does not preclude criminal investigation.
18. Learned counsel appearing for Respondent No. 3 argued that the availability of a civil remedy does not bar the initiation of criminal proceedings where the allegations disclose the commission of offences under the Penal Code.
19. Learned counsel for the State adopted the submissions advanced on behalf of Respondent No. 3 and contended that once an FIR has been registered pursuant to a judicial order, investigation ought to be permitted to proceed to its logical conclusion.



20. Heard learned counsel for the Parties and perused the records.
21. At the outset, it is to be noted that the jurisdiction exercised by a Magistrate under Section 156(3) CrPC is a judicial one and not an administrative formality. A direction for registration of an FIR cannot be issued as a matter of course. The Magistrate is required to apply an independent judicial mind to the allegations, the material placed on record, and the surrounding circumstances, particularly where earlier proceedings on the same cause of action have culminated in rejection.
22. In the present case, the application under Section 156(3) CrPC pertains to eleven registered sale deeds executed between the years 1997 and 2009. The executant of the sale deeds expired in the year 2010. The criminal law was set in motion for the first time in the year 2021, more than a decade after the death of the executant and nearly twenty-four years after the execution of the earliest sale deed.
23. Delay, by itself, may not be fatal in every criminal case. However, where the delay is inordinate and remains unexplained, and where the allegations relate to long-concluded transactions involving registered documents, such a delay assumes critical significance. In the present case, no plausible explanation emerges from the record as to why Respondent No. 3 remained dormant for more than a decade after the death of her husband and for several decades after execution of the sale deeds.
24. It is also not in dispute that all eleven sale deeds are registered instruments. Registration carries with it a statutory presumption of validity. The law is well settled that a registered document is presumed to be validly executed unless the presumption is rebutted in appropriate proceedings before a competent forum. Admittedly, neither the executant during his lifetime nor Respondent No. 3



- thereafter instituted any civil proceedings seeking cancellation or declaration of invalidity of the sale deeds.
25. The failure to challenge the sale deeds before a civil court, despite full knowledge of their existence, and the direct resort to criminal proceedings after a prolonged lapse of time, is a circumstance that cannot be lightly brushed aside. Criminal law cannot be permitted to be invoked as a substitute for civil remedies, particularly where the latter have either not been pursued or have become barred by limitation.
26. The foundation of the application under Section 156(3) CrPC is a private handwriting expert opinion obtained by Respondent No. 3 in the year 2021, examining only a few of the sale deeds and that too long after the death of the alleged executant. Expert opinion, at its highest, is opinion evidence. It is neither conclusive nor determinative and must be tested during trial. Such an opinion, standing alone, cannot constitute sufficient ground for directing registration of an FIR in respect of registered documents executed decades earlier.
27. This Court is conscious of the principle that merely because a dispute has civil overtones, criminal proceedings are not barred. However, the converse is equally true. Where the allegations, even if taken at face value, arise out of property transactions evidenced by registered documents, and where the complainant has consciously abstained from invoking civil jurisdiction for years together, criminal proceedings cannot be permitted to be used as a tool of coercion or harassment.
28. The impugned order dated 20.09.2022 does not reflect due compliance with the directions issued by this Court in WPCRL No. 38 of 2022. The learned Magistrate was required to examine the effect of the documents relied upon by the complainant and to pass a



- reasoned order. A bare reading of the impugned order reveals that the earlier judicial findings, the issue of delay, the presumption attached to registered documents, and the civil nature of the dispute have not been meaningfully addressed.
29. The power under Section 156(3) CrPC is not meant to be exercised mechanically, particularly where the Magistrate had earlier, on the same material, found no cognizable offence to be made out. The impugned order, in the considered view of this Court, falls short of the standard of judicial scrutiny mandated by law.
30. This Court is also guided by the consistent caution sounded by the Supreme Court against the growing tendency to convert civil disputes, especially property and family disputes, into criminal cases in order to apply pressure on the opposite party. The inherent jurisdiction of this Court is meant precisely to interdict such misuse of the criminal process.
31. In the totality of the circumstances, this Court is of the opinion that continuation of the criminal proceedings pursuant to the impugned order would amount to an abuse of the process of law and would not serve the ends of justice.

ORDER

For the reasons recorded in the preceding paragraphs, this Court is satisfied that the impugned order dated 20.09.2022 passed by the learned Additional Chief Judicial Magistrate, Kashipur, District Udham Singh Nagar, in Miscellaneous Application No. 630 of 2021 suffers from non-application of judicial mind and has resulted in misuse of the criminal process.

The writ petition is accordingly **allowed**.

The order dated 20.09.2022 passed by the learned Additional Chief Judicial Magistrate, Kashipur, District Udham Singh Nagar, directing registration of an FIR is hereby set aside.



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Consequently, FIR No. 0601 of 2022 dated 23.09.2022 registered at Police Station Kashipur, District Udham Singh Nagar, under Sections 420, 467, 468 and 471 of the Indian Penal Code, and all proceedings arising therefrom, are quashed.

Pending applications, if any, stand disposed of.

(Ashish Naithani J.)

Dated:23.12.2025

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