

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH**  
**AT JAMMU**

**CRM(M) No. 547/2021**

CrIM No. 1755/2021

CrIM No. 1756/2021

CrIM No. 629/2023

**Reserved on: 30.07.2026**

**Pronounced on: 20.08.2026**

**Uploaded on: 20.08.2026**

**Operative part or full judgment: Full**

**Anil Sethi**

S/O Late Sh. R.P. Sethi,  
R/O 1, Mahesh Pura, Jammu.

...Petitioner(s)

Through: Mr. Anmol Sharma, Advocate.

**Vs.**

**1. UT of J&K through SSP**  
Crime Branch, Jammu.

**2. Investigating Officer**  
in PV No. 55/2014,  
Crime Branch, Jammu.

**3. Rakesh Pandoh**  
S/O Shri Ved Parkash,  
R/O 212, Prem Nagar, Jammu.

...Respondent(s)

Through: Mrs. Monika Kohli, Sr. AAG for R-1 & 2.  
Respondent No. 3 present in person.

**CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE**

**JUDGMENT**

1. Petitioner, through the medium of this petition filed under Section 482 CrPC seeks quashing of Order dated 24.09.2014 passed in Criminal Revision No. 22/Cr. Rev. titled 'Anil Sethi Vs. State' by the court of learned 2<sup>nd</sup> Additional Sessions Judge, Jammu (hereinafter called as **"Revisional Court"**)

whereby the order dated 24.06.2014 passed by the Court of learned Chief Judicial Magistrate, Jammu under Section 156(3) CrPC, filed by respondent No. 3, was upheld.

2. In the application filed by the respondent No. 3, it was claimed that an Agreement to Sell dated 20.02.2007 with regard to a building consisting of 10 shops situated at Main Road, Prem Nagar, New Plots, Jammu was executed between the respondent No. 3 (hereinafter called '**Complainant**') and the petitioner (hereafter called '**accused**'), against a sale consideration of Rs. 27.00 lacs for which, payment to the tune of Rs. 22.00 lacs was made by the accused to the complainant on different dates and the amount of Rs. 5.00 lacs due to be paid to him on the date when sale deed would be registered on 30.06.2007; that the possession of the property was handed over to the accused by the complainant except two shops, one of which was in possession of Shri Ram Pal and other was in the possession of the complainant in which some goods of the complainant were kept.
3. It was further alleged that after making part payment of Rs. 22.00 lacs to the complainant and taking over the possession of the property in question, accused, with the sole aim to deprive the complainant of the remaining amount of Rs. 5.00 lacs, avoided to respond to the calls of the complainant and delayed the registration of the sale deed on one pretext or another; that later the complainant came to

know that the accused had already got executed the sale deed and also got it registered on 27.06.2007, by misleading through misrepresentation by impersonation of some unknown person, as complainant; that his signatures were forged by the accused with the aid and assistance of Sanjay Kumar Abrol and both of them had produced an unknown person to appear as vendor in place of complainant, before the concerned court and got the sale deed registered, though the complainant had neither signed the alleged sale deed nor appeared before the court of law for its registration as he was serving outside the State on the relevant date and time; that the said Sanjay Kumar Abrol had identified the signatures of the person, who appeared before the Sub Registrar, pretending to be Rakesh Pandoh (complainant) and Sh. Rakesh Kumar and Sh. Mumtaz Shah, Advocates as witnesses to the said sale deed, who were close associates of the accused.

4. It was further alleged that the aforesaid events clearly demonstrate that the accused with the criminal intention of duping the complainant of Rs. 5.00 lacs and to enjoy the property in question has played fraud with the complainant as well as the Sub Registrar who registered the sale deed, by forging signatures of the complainant as vendor and preparation of false and fabricated sale deed as vendor; that not only this but a fabricated 'Agreement to Sell' was also

alleged to have been entered into between the complainant and the accused on the same terms and conditions as prescribed in the earlier one except the difference of the sale consideration as Rs 12.50 lacs and this Agreement to Sell was attested by Sh. Vidya Sagar Magotra, Notary in absence of the complainant and his signatures were also forged on that agreement by the accused, as such, he fraudulently, dishonestly and with criminal intention cheated the complainant by forging documents, in his name.

5. On receipt of the aforesaid complaint, the learned Chief Judicial Magistrate, Jammu vide order dated 24.06.2014 forwarded the complaint to SHO, Police Station, Crime Branch, Jammu, in terms of Section 156(3) CrPC.
6. The order passed by the learned Magistrate was assailed through the medium of the Criminal Revision petition before the learned Revisional Court and the Revisional Court relying upon the Full Bench judgment of the Hon'ble High Court of Allahabad, in the case of 'Father Thomas Vs. State of U.P.', **2011 CrLJ 2278** held that the order passed by the learned Chief Judicial Magistrate, Jammu, in exercise of powers under Section 156(3) CrPC was not revisable and dismissed the revision petition.
7. The petitioner-accused has assailed both the aforesaid impugned orders and sought their quashment on the grounds that the direction issued by the learned Chief

Judicial Magistrate, Jammu to the Crime Branch was illegal because the matter was purely outside the jurisdiction of Crime Branch and even otherwise the factum of pendency of the civil suit between the parties with regard to same property, was never disclosed before the court of learned Chief Judicial Magistrate, Jammu and that straightway passing of the directions for registration of the case has resulted into grave prejudice to the petitioner; that the Crime Branch had started collecting evidences from the hotel record and other places and was conducting itself in a manner in which a civil court can collect the evidence; that all proceedings of PV No. 55/2014 dated 30.07.2014 conducted by the Crime Branch since the passing of the order by the learned Chief Judicial Magistrate, Jammu are void ab initio and are required to be quashed.

8. Pursuant to notice, respondent-Crime Branch filed reply, asserting therein that in compliance to the directions of the learned Chief Judicial Magistrate, Jammu, vide his order dated 24.06.2014, the respondent had initiated PV No. 55/2014, which was closed by Inspector Mohd. Arif as 'not proved' on the ground that the matter was already sub judice in the court of law and in this regard, a status report was submitted to learned Chief Judicial Magistrate, Jammu on 04.06.2015.

9. The PV file was submitted to the Crime Headquarters for accord of approval on 13.06.2015, however, the Crime Headquarters, vide letter dated 16.07.2015, observed that the complainant had filed a civil suit with the prayer that a decree be passed to the effect that sale deed dated 27.06.2007 registered by Sub Registrar, Jammu in favour of the accused be declared as illegal and null and void, while as, the instant PV pertains to cheating and impersonation by accused, which reveals that the court case and the instant PV are not identical and the file was returned back for further probe; that after a thorough enquiry, probe of PV No. 55/2014 was concluded as 'proved' against accused and as per the procedure in vogue, the PV file was submitted to Crime Headquarters for necessary approval to register the FIR. However, the Crime Headquarters directed to club the instant PV with case FIR No. 48/2016 already registered in Police Station, Crime Branch, Jammu, substance being same.
10. During investigation, it transpired that the complainant Rakesh Kumar Pandoh had not appeared as vendor, before the Sub Registrar, Jammu at the time of execution of the disputed sale deed; that the forged Agreement to Sell dated 22.03.2007 was similar to the original Agreement to Sell dated 20.02.2007 in content with only difference that the consideration amount, which has been shown to be

Rs. 12.50 lacs instead of Rs. 27.00 lacs; that the direction passed by the learned Chief Judicial Magistrate, Jammu was acted upon and during preliminary verification, allegations leveled against the accused have been established and accordingly, offences punishable under sections 420, 467, 468, 471 and 120-B RPC were established. However, further investigation could not be conducted in view of the stay order granted by this court vide order dated 21.09.2021.

11. Respondent No. 3-Complainant, in his reply submitted that he had been cheated and defrauded by the accused in connection with a deal with regard to a building owned by the complainant, which was agreed to be sold to the accused for sale consideration of an amount of Rs. 27.00 lacs; that the petitioner paid an amount of Rs. 22.00 lacs to the complainant and the balance amount of Rs. 5.00 lacs was agreed to be paid to the complainant at the time of registration of sale deed; that the petitioner got prepared a fresh 'agreement to sell' and a 'sale deed' based on it, forging signatures of the complainant and got the forged 'sale deed' registered on 27.06.2007, in absence of the complainant, by misleading the Sub Registrar, through misrepresentation and impersonation by some unknown person, to be the complainant. Finally, it has been prayed that the petition be dismissed and the Crime Branch be directed to conclude the investigation so that the accused can be prosecuted for the

commission of the offences, which he had committed against the complainant.

12. Mr. Anmol Sharma, learned counsel for the petitioner argued that the learned Magistrate had passed the impugned order without consideration of the matter in right perspective and in a mechanical manner had ordered the investigation by the Crime Branch against the accused with regard to a matter purely of civil nature as both the complainant as well as the accused had entered into an agreement, with regard to purchase of a property, which has also become subject matter of civil suit filed by the complainant, therefore, no criminal action was warranted in the case and such a criminal action of registration of the case and investigation against the accused is a misuse of process of the court and against the interest of justice.
13. Learned counsel for the petitioner would further argue that pursuant to the magisterial direction, the Crime Branch, in its preliminary verification (PV), had closed the verification as 'not proved', which was also reported to the court of learned Chief Judicial Magistrate, Jammu on 04.06.2015; that after the closure of the verification, the respondent-Crime Branch again re-opened the preliminary verification and continued with the same to conduct further probe; that for registration of a case for cheating has alleged to be shown right from the inception and the complainant had failed to substantiate this

fact in his complaint, as such, no cognizance should have been taken for such an alleged offence, with regard to such a plea which can be taken up during the proceedings of the civil suit, already sub judice between the parties, before a court of law.

14. Mr. Anmol Sharma also submits that the alleged occurrence was of the year 2007 and the civil suit was filed in the year 2008 by the complainant in which he has not examined himself as a witness till now; that the order passed by the learned Magistrate was not in consonance with the legal provisions and was amenable to the revisional jurisdiction as the same cannot be stated to be interlocutory order, which sets into motion of a cognizance to be taken for registration of a case for investigation detrimental to the rights of the accused and that the revisional court by passing the impugned judgment had overlooked the legal aspects by taking a view based on an Allahabad High Court's judgment only that the order passed by the learned Magistrate under Section 156(3) of CrPc was an interlocutory order, which could not be challenged. He has finally argued that the petition be allowed and both the orders impugned i.e., the order passed by the learned Chief Judicial Magistrate, Jammu directing Crime Branch to investigate the matter and the order passed by the Revisional Court dated 24.09.2014 whereby the order passed by the learned Magistrate was

upheld in criminal revision and the subsequent proceedings before the Crime Branch, being misuse of the process of court be quashed.

15. Mrs. Kohli, learned Sr. AAG, ex-adversus, argued that in a complaint filed by the complainant, alleging cheating and fraud committed by the accused by taking his property without making full payment under a sale deed registered with the Sub Registrar Jammu through impersonation of a person in place of complainant as vendor and forging his signatures on the sale deed, the learned Chief Judicial Magistrate, Jammu had directed the investigation through Crime Branch and that the Crime Branch had started preliminary verification in the matter and the officer, initially dealing with the verification, concluded the case as 'not proved' primarily for the reason of pendency of a civil case between the parties with regard to the subject of the dispute and that this development was shared with the learned Chief Judicial Magistrate, Jammu as well. She, however, submits that on submission of the preliminary verification report as 'not proved' before the Crime Headquarters, the superior authority directed further preliminary verification in the matter and the Crime Branch later observed that the offences are proved and the case was again submitted to the Crime Headquarters with recommendation for registration of a case. However, the Crime Headquarters instead of

directing separate registration of the case directed the preliminary enquiry to be part of FIR No. 48/2016 already registered in the matter; that in the meanwhile the investigation of the case was stayed by this Court in this petition and the Crime Branch has not been able to finalize the investigation/chargesheet for presentation before the competent court of law.

16. Learned Sr. AAG, would further argue that though the alleged offences of cheating, fraud, impersonation and forgery relate to the agreement to sell and execution and registration of the Sale Deed, with regard to a building of the complainant, regarding which a civil suit is sub-judice before a civil court, having been filed by the complainant, there is no legal bar and impediment to investigate the matter, in respect of commission of offences, for which, the civil court cannot do justice. The offences are constituted on bare perusal of the FIR and have also been substantiated during PV conducted by the CB. To thwart investigation of a case, which has merits otherwise, shall not secure the ends of justice. Both the impugned orders are perfectly legal and do not warrant any interference by this Court in the inherent jurisdiction. She finally prayed that the petition being misconceived be dismissed and the impugned orders be upheld.

17. Respondent No. 3-complainant, appearing in person, while reiterating the chronology of the events, as narrated in his complain submits that he has been cheated and defrauded of his property by the accused, through forged documents by impersonation, showing the same to have been executed by him as vendor though he was at Jaipur working in a Hotel as Front Officer Assistant on the date of registration of the Sale Deed and prayed that the investigation of the case be ordered to be continued so that the culprits be brought to justice and the petition filed by the accused be dismissed.
18. Heard learned counsel for the parties, perused the record and considered the matter.
19. In this petition, the petitioner-accused has challenged the order passed by the learned Chief Judicial Magistrate, Jammu directing investigation through Crime Branch and upholding the order passed by the learned CJM in a criminal revision petition by the learned Revisional Court as well. The order passed by the learned CJM was upheld by the revisional court, based on the law laid down by a Full Bench judgment of Allahabad High Court in a case titled as “Father Thomas Vs. State of U.P.,” wherein it has been held that such an order by a Magistrate to direct investigation was interlocutory in nature and no criminal revision could be filed against the same and dismissed the criminal revision.

20. Respondent No. 2/complainant lodged a complaint, before the learned CJM Jammu, alleged that he was cheated and defrauded of his property by the petitioner/complainant, to have got with regard to his property, initially an 'agreement to sell' and then 'sale deed' executed and registered with Sub Registrar, Jammu, not only forging his signatures but also getting him impersonated, in his absence. The learned CJM, vide dated 24.06.2014 directed CB to conduct investigation. The petitioner/accused, challenged this order before the Revisional Court, in a Cr. Rev. Petition, which was rejected. Aggrieved of both these orders, petitioner/accused invoked the inherent jurisdiction of this Court to assail and seek quashing of these orders.
21. On a careful perusal of the complaint, as reiterated in FIR, all the allegations, constitute 'prima facie' forgery, impersonation, fraud and cheating, with regard to the 'agreement to sell' attested by Notary Public and based on same 'sale deed', with regard to the complainant's house property.
22. Pendency of a civil suit with regard to the same property between the complainant and accused is no impediment to maintain a criminal action, about the criminal offences.
23. The Hon'ble Apex Court in 'S.N. Vijayalakshmi & Ors Vs. State of Karnataka & Anr', **2025 SCC Online SC 1575** in paragraph 42 has observed as under:

**“42. Coming to the second question i.e., whether civil and criminal proceedings both can be maintained on the very same set of allegations qua the same person(s), the answer stricto sensu, is that there is no bar to simultaneous civil and criminal proceedings. If the element of criminality is there, a civil case can co-exist with a criminal case on the same facts. The fact that a civil remedy has already been availed of by a complainant, ipso facto, is not sufficient ground to quash an FIR, as pointed out, inter alia, in P Swaroopa Rani v M Hari Narayana, (2008) 5 SCC 765 and Syed Aksari Hadi Ali Augustine Imam v State (Delhi Admn.), (2009) 5 SCC 528. The obvious caveat being that the allegations, even if having a civil flavour to them, must prima facie disclose an overwhelming element of criminality. In the absence of the element of criminality, if both civil and criminal cases are allowed to continue, it will definitely amount to abuse of the process of the Court, which the Courts have always tried to prevent by putting a stop to any such criminal proceeding, where civil proceedings have already been instituted with regard to the same issue, and the element of criminality is absent. If such element is absent, the prosecution in question would have to be quashed.”**

24. Having regard to the factual background as stated hereinabove having overwhelming elements of criminality of forgery, impersonation and cheating in a property deal and the legal aspects to maintain both civil and criminal actions simultaneously, this Court is of the considered opinion that the case registered on the complaint of the complainant, against the accused requires thorough investigation to

unearth the truth, vis-à-vis, serious allegations to divest the complainant from receipt of balance amount of consideration of Rs. 5.00 lac payable by the accused, in a deal of house property.

25. Viewed thus, the petition invoking inherent jurisdiction under statutory provision under section 482 CrPC, is found to be bereft any merit and substance, against the impugned order passed by the learned Magistrate while directing registration of the case, which was rightly upheld by the Revisional court. No illegality is found in the impugned orders, which are, accordingly, upheld.

26. In this backdrop of the matter, this petition along with connected application(s) is **dismissed** along with connected application(s). Interim direction, if any, shall stand vacated. The investigating agency shall expedite the investigation, making endeavour to conclude it at the earliest, in view of the case having been lodged way back in the year 2014.

**(M A CHOWDHARY)**  
**JUDGE**

JAMMU  
20.08.2026  
Naresh/Secy.

**Whether the order is reportable: Yes**  
**Whether the order is speaking: Yes**