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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 379/2025**

VINOD KUMAR VERMA

.....Petitioner

Through: Mr. Harshit Jain, Advocate
(DHCLSC) with Mr. Rahul Kumar,
Mr. Shubham Singh, Advocates

versus

STATE OF NCT OF DELHI AND ANR.

.....Respondents

Through: Mr. Hemant Mehla, APP for State
with Insp. Sandeep Kumar, PS Madhu
Vihar
Mr. Gaurav Mehta, Ms. Sakshi Harit,
Mr. Ojas Singh Sachdeva, Advocates
for R-2

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

08.05.2025

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1. The present petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeks quashing of FIR No. 263/2023¹ dated 13th June, 2023, registered at P.S. Madhu Vihar for offences under Sections 447/448/34 of the Indian Penal Code, 1860,² as well as all consequential proceedings emanating therefrom. Subsequently, the impugned FIR was amended and Section 380 of IPC was also added.

¹ "the impugned FIR"

² "IPC"



2. The case of the prosecution is briefly outlined as follows:

2.1. The impugned FIR was registered on the basis of a complaint made by Kamlesh Bhardwaj, a 72-year-old woman, against two individuals– Raj Kumar Mishra and the Petitioner. The Complainant alleged that both the accused are unlawfully asserting ownership over the Complainant’s property, identified as Old No. D-2, now A-13, Madhu Vihar, Delhi.³ The Complainant asserts that she has held valid title documents to the said premises since 1988.

2.2. On 13th October, 2022, the Complainant received a call from a neighbour informing her that Raj Kumar Mishra was attempting to install electricity meter on her property. By the time Ms. Bhardwaj arrived, a PCR van was already at the site. She informed the police that the property belonged to her mother-in-law. Ms. Bhardwaj further reported that certain household items, including a table, chair, cupboard, and a locked door, had gone missing.

2.3. The Complainant produced the original title documents before the police. Based on this, the FIR was registered and investigation commenced.

2.4. During the investigation, relevant documents were seized, and a local inquiry was conducted, which corroborated the Complainant’s claim of ownership of the property. Statements of key witnesses were recorded, and records from the Department of Archives further validated the Complainant’s ownership. Additionally, records from BSES confirmed that a meter was installed in the Complainant’s name on 4th August, 2003, while

³ “The property in question”



a temporary electricity meter had been installed in the name of Raj Kumar Mishra in the year 2022. Records from the MCD, Assessment and Collection Department, Shahdara South Zone, Delhi, also confirmed the Complainant's ownership of the property.

2.5. The police also took note of an FIR No. 144/2015, dated 7th February, 2015, lodged by the Complainant's son, Rajesh Bhardwaj, concerning theft at the same address. This, according to the prosecution, also indicates Complainant's possession as far back as 2015.

2.6. During further investigation, Raj Kumar Mishra claimed that he had purchased the property from one Mr. Madan for a sum of INR 6.5 lakhs and had been in possession since 2005. He furnished self-attested copies of certain property documents but stated that the originals had been filed in Civil Suit No. 901/2022 titled ***Vinod Kumar Verma v. Raj Kumar Mishra***, which had been instituted by the present Petitioner. On 16th January, 2025, the said civil suit was referred to mediation on the joint request of the parties.

2.7. As part of the investigation, notices under Section 41-A of the Code of Criminal Procedure, 1973⁴ were sent to the Petitioner on three occasions: 6th June, 2024, 9th September, 2024, and 18th October, 2024. However, the Petitioner failed to appear despite service. Two applications for anticipatory bail filed by him were dismissed by the Court of Additional Sessions Judge-03, Shahdara, on 29th October, 2024 and 19th November, 2024, respectively. Non-bailable warrants were then issued. Despite concerted efforts by the

⁴ "Cr.P.C"



investigating agency, the Petitioner could not be apprehended, prompting initiation of proceedings under Section 82 of Cr.P.C.

2.8. On 22nd February, 2025, during execution of the process under Section 82 of Cr.P.C, the Petitioner was arrested in accordance with the law.

2.9. A charge sheet was filed against Raj Kumar Mishra on 15th January, 2025. As far as the Petitioner is concerned, investigation remains pending.

3. Counsel for the Petitioner argues that the impugned FIR is liable to be quashed as the allegations made are false and fabricated, and do not disclose the alleged offences against the Petitioner. He urges the following in support of his petition:

3.1. The Petitioner is the legitimate owner of the property in question. Reliance is placed upon extensive documentation, including a General Power of Attorney, an Agreement to Sell, an Affidavit, Payment Receipts, and Registered Wills all executed on 1st January, 2001, proving Petitioner's legitimate ownership. Consequently, the allegation of criminal trespass collapses entirely.

3.2. The Petitioner has filed a civil suit (CS No. 901/2022) against Raj Kumar Mishra, Jyoti Bhardwaj, and Kamlesh Bhardwaj regarding the subject property. A Local Commissioner appointed by the Civil Court submitted a report dated 14th November, 2022, expressly stating that no party was in actual physical possession. This undermines any allegations of dispossession or criminal trespass levelled against the Petitioner.

3.3. The impugned FIR was registered 8 months after the incident. Moreover, the complaint dated 14th October, 2022, initially submitted by Kamlesh Bhardwaj, materially differs from the version presented in the FIR,

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particularly regarding the allegedly stolen household items such as a chair, table, cupboard, and a lock with a chain. These accusations, are demonstrably contrived and appear to be nothing more than afterthoughts.

3.4. The Complainant is attempting to turn a civil dispute into a criminal matter in order to harass the Petitioner and exert pressure to comply with the Complainant's illegal demands.

4. *Per contra*, counsel for the Complainant opposes the present petition presenting a sharply contrasting narrative grounded on the following contentions:

4.1. The Complainant has maintained uninterrupted possession of the property since 1988. The Petitioner and his co-accused forcibly attempted to dispossess the Complainant and unlawfully appropriated household articles from the premises. The documents submitted by the Complainant to the investigating officer date back to January, 1988, and substantiate Complainant's possession. This corroborated by the statements of the neighbours recorded under Section 161 of Cr.P.C, confirm the Complainant's long-term possession of the property in question.

4.2. In the ongoing civil litigation, the Petitioner has described himself as indigent, expressly disclaiming ownership of any movable or immovable property. Such admissions, directly contradict his current assertion of lawful ownership.

4.3. The Petitioner has allegedly purchased the property in question from Ved Prakash and Mahesh Chand Sharma. However, he has concealed the fact that the said individuals executed a registered cancellation deed revoking their prior transactions. Moreover, both Ved Prakash and Mahesh

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Chand Sharma have separately initiated proceedings against the Petitioner in this Court and before the Additional District Judge (East), Karkardooma Courts, which demonstrates that Petitioners claims are dubious.

5. Mr. Hemant Mehla, APP for the State, informs that a chargesheet has already been filed against the co-accused, Raj Kumar Mishra, and the Petitioner himself has been arrested pursuant to due process. He further assures the Court that a supplementary charge sheet against the Petitioner is imminent and shall shortly be filed before the Trial Court.

6. The Court has carefully considered the submissions of the Petitioners. At the outset, it is pertinent to emphasise that the extraordinary power vested in this Court under Section 482 of Cr.P.C, to quash criminal proceedings must be exercised sparingly, judiciously, and only when compelling circumstances so warrant. The Supreme Court, in **Indian Oil Corporation v. NEPC India Limited and Others**,⁵ succinctly summarized the legal principles governing the exercise of jurisdiction under Section 482 Cr.P.C., which may be briefly recounted as follows:

“12. 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 Chandrojirao Angre [(1988) 1 SCC 692 : 1988 SCC (Cri) 234] , State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , Rupan Deol Bajaj v. Kanwar Pal Singh Gill [(1995) 6 SCC 194 : 1995 SCC (Cri) 1059] , Central Bureau of Investigation v. Duncans Agro Industries Ltd. [(1996) 5 SCC 591 : 1996 SCC (Cri) 1045] , State of Bihar v. Rajendra Agrawalla [(1996) 8 SCC 164 : 1996 SCC (Cri) 628] , Rajesh Bajaj v. State NCT of Delhi [(1999) 3 SCC 259 : 1999 SCC (Cri) 401] , Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd. [(2000) 3 SCC 269 : 2000 SCC (Cri) 615] , Hridaya Ranjan Prasad

⁵ (2006) 6 SCC 736.



Verma v. State of Bihar [(2000) 4 SCC 168 : 2000 SCC (Cri) 786] , M. Krishnan v. Vijay Singh [(2001) 8 SCC 645 : 2002 SCC (Cri) 19] and Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque [(2005) 1 SCC 122 : 2005 SCC (Cri) 283] . 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

[Emphasis Supplied]

7. Furthermore, the Supreme Court, in ***Rathish Babu Unnikrishnan v.***

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State (NCT of Delhi),⁶ referencing several judgments, has delineated the criteria for the exercise of inherent jurisdiction to quash criminal proceedings at a preliminary stage:

*“14. The parameters for invoking the inherent jurisdiction of the Court to quash the criminal proceedings under S.482 CrPC, have been spelled out by Justice S. Ratnavel Pandian for the two judges' bench in **State of Haryana v. Bhajan Lal** [1992 Supp (1) SCC 335 : AIR 1992 SC 604], and the suggested precautionary principles serve as good law even today, for invocation of power under Section 482 of the Cr.P.C.*

‘103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.’

*15. In the impugned judgment, the learned Judge had rightly relied upon the opinion of Justice J.S. Khehar for a Division Bench in **Rajiv Thapar** (supra), which succinctly express the following relevant parameters to be considered by the quashing Court, at the stage of issuing process, committal, or framing of charges,*

‘28. The High Court, in exercise of its jurisdiction under Section 482 CrPC, must make a just and rightful choice. This is not a stage of evaluating the truthfulness or otherwise of the allegations levelled by the prosecution/Complainant against the accused. Likewise, it is not a stage for determining how weighty the defences raised on behalf of the accused are. Even if the accused is successful in showing some suspicion or doubt, in the allegations levelled by the prosecution/Complainant, it would be impermissible to discharge the accused before trial. This is so because it would result in giving finality to the accusations levelled by the prosecution/Complainant, without allowing the prosecution or the Complainant to adduce evidence to

⁶ 2022 SCC OnLine SC 513.



substantiate the same.'

16. The proposition of law as set out above makes it abundantly clear that the Court should be slow to grant the relief of quashing a complaint at a pre-trial stage, when the factual controversy is in the realm of possibility particularly because of the legal presumption, as in this matter. What is also of note is that the factual defence without having to adduce any evidence need to be of an unimpeachable quality, so as to altogether disprove the allegations made in the complaint.

17. The consequences of scuttling the criminal process at a pretrial stage can be grave and irreparable. Quashing proceedings at preliminary stages will result in finality without the parties having had an opportunity to adduce evidence and the consequence then is that the proper forum i.e., the trial Court is ousted from weighing the material evidence. If this is allowed, the accused may be given an un-merited advantage in the criminal process.

[Emphasis Supplied]

8. Applying these settled principles to the facts at hand, it becomes evident that the submissions raised by the Petitioner are predominantly their defences, largely premised upon the assertion of ownership documents and pending civil litigation. Such contentions, as persuasive as they might be in civil adjudication, cannot automatically discredit or negate the allegations detailed in the FIR. Indeed, the Petitioner's claims, notably his reliance on ownership documents and assertions of civil possession disputes, inherently involve disputed questions of fact that would require determination on the basis of evidence to be adduced by parties, precisely the function of a trial court. Any interference by this Court would be premature and prejudice the rights of the complainant.

9. Moreover, the timeline between the incident and the FIR, is not by itself indicative of *mala fide* intent or fabrication, especially considering that the Complainant promptly reported the initial dispute to the authorities.

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Further, discrepancies highlighted between the complaint dated 14th October, 2022, and the FIR lodged subsequently do not conclusively demonstrate fabrication or malicious intent. The effect of alleged variations between different accounts of the Complainant is an issue to be considered by the Trial Court; and not sufficient ground for quashing under Section 482 of Cr.P.C. at this preliminary stage.

10. Significantly, the allegations levelled, encompassing both trespass and theft, clearly outline offences cognizable under IPC. The Complainant's assertions are supported by documentary evidence spanning several decades and corroborated preliminarily by independent witness statements. Thus, on the *prima facie* evaluation of these allegations, this Court cannot deem the FIR improbable or absurd to the extent that would warrant the exercise of its extraordinary jurisdiction to quash. Additionally, mere existence or pendency of civil proceedings concerning the same subject matter does not *ipso facto* provide a ground for quashing criminal proceedings under Section 482 of Cr.P.C.⁷ Criminal law and civil remedies operate distinctly and independently, and the mere availability of a civil remedy does not inherently preclude criminal accountability, particularly where the factual allegations suggest acts beyond mere civil wrongs.

11. Consequently, this Court refrains from exercising its inherent jurisdiction under Section 482 Cr.P.C to quash the FIR at this preliminary juncture. It is clarified, however, that the observations herein should not be construed as indicative of the merits of the allegations or the Petitioner's

⁷ See also: *Punit Beriwal v. State NCT of Delhi*, 2025 INSC 582



defences thereto. The Petitioner shall remain fully entitled to raise all factual and legal defences available to him before the Trial Court at the appropriate stage.

12. Dismissed.

SANJEEV NARULA, J

MAY 8, 2025/ab

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