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

+ **CRL.M.C. 944/2025 & CRL.M.A. 4378/2025**

S P CHAUDHARY

.....Petitioner

Through: Mr. Mukesh K. Sharma and Mr.
Chatanya Siddharth, Advocates

versus

THE GOVT OF NCT OF DELHI & ORS.

.....Respondents

Through: Mr. Raghuinder Verma, APP for the
State along with SI Mahavir Jogi and
PSI Arjun.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER
19.02.2025

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1. The instant petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter “BNSS”) [earlier Section 482 of the Code of Criminal Procedure, 1973 (hereinafter “CrPC”)] has been filed on behalf of the petitioner seeking quashing of FIR bearing no. 0088/2013, dated 26th June, 2013, filed at Police Station - Barakhamba Road, New Delhi for the offences punishable under Sections 420/406 of the Indian Penal Code, 1860 (hereinafter “IPC”) and the chargesheet dated 23rd May, 2019.

2. The brief facts that led to the filing of the instant petition are as follows:

- a. The petitioner is a property dealer engaged in the business of land development and real estate transactions and operates through his



proprietorship firm namely M/s Om Group of Lands. The complainant is the Managing Director of M/s Parsvnath Developers Ltd., which is a real estate development company.

- b. In November, 2005, the petitioner and the complainant entered into a Memorandum of Understanding (hereinafter “MoU”) for the sale and development of land located in Jodhpur, Rajasthan. The complainant sought to acquire a substantial portion of land for a development project and the petitioner assured him that he could arrange the necessary land parcels through his network of landowners.
- c. Pursuant to the terms of the MoU, the complainant paid an advance sum of Rs. 2,01,00,000/- (Rs. 2.01 crores) to the petitioner by the following two cheques:
 - i. Cheque No. 006042 for Rs. 1,01,00,000/- dated 10th November, 2005.
 - ii. Cheque No. 006043 for Rs. 1,00,00,000/- dated 11th November, 2005.
- d. The petitioner acknowledged receipt of the funds and assured that the physical possession of the land would be handed over within 20 days. However, as per the complainant, the petitioner failed to deliver possession and did not provide the requisite title documents for verification.
- e. Thereafter, the complainant conducted an independent title verification through the Tehsildar office in Jodhpur and the investigation allegedly revealed that the land did not belong to the petitioner or his proprietorship firm.
- f. Subsequently, the complainant repeatedly demanded a refund of Rs.



2.01 crores but the petitioner neither refunded the amount nor provided possession. Despite multiple reminders, the petitioner allegedly failed to fulfill his obligations under the MoU. The complainant claims that this act amounts to cheating and criminal breach of trust.

- g. On 26th June, 2013, the complainant filed an FIR at Police Station - Barakhamba Road, New Delhi under Sections 420 and 406 of the IPC.
 - h. The petitioner, subsequently, filed a petition for quashing of the FIR before this Court, which was disposed of with directions to the petitioner to join the investigation, while granting liberty to seek legal recourse after filing of the chargesheet.
 - i. After investigation, the police filed chargesheet dated 23rd May, 2019 formally accusing the petitioner of cheating and criminal breach of trust. The case was committed to trial and is pending before the learned Metropolitan Magistrate, Patiala House Court, New Delhi and summons were issued to the petitioner in the year 2024 for framing of charges.
 - j. Aggrieved by the FIR and the chargesheet, the petitioner has preferred the present petition seeking quashing of the same.
3. Learned counsel appearing on behalf of the petitioner submitted that the FIR and chargesheet are vitiated by *malafide* intent, having been lodged after an unexplained delay of nine years, with the chargesheet following six years later.
4. It is submitted that the alleged incident occurred in Jodhpur, Rajasthan and involved transactions related to land situated there, thereby



excluding the jurisdiction of the Delhi Police to investigate the matter.

5. It is submitted that the present case is inherently civil in nature but has been wrongfully framed as a criminal offence. It is also submitted that the unreasonable delay, coupled with absence of any immediate grievance during the intervening years, strongly indicates that the FIR was lodged not in pursuit of justice, but as a tool of harassment against the petitioner.

6. It is submitted that it is a well-established principle of law that when the evidence relied upon is insufficient to establish any nexus between the accused and the alleged offence, and when a conviction is unlikely, the continuation of proceedings serves no legal purpose. Hence, in such circumstances, quashing of proceedings is justified to prevent miscarriage of justice.

7. In view of the aforesaid submissions, it is prayed that the present petition may be allowed and the reliefs be granted as prayed for.

8. *Per contra*, learned APP for the State appeared on advance notice and vehemently opposed the instant petition. He submitted that the investigation has already been concluded by the police and chargesheet has also been filed before the Court concerned, therefore, several materials have been found against the petitioner by the investigating agency. Consequently, therefore, Court concerned has taken cognizance and the matter is listed before the same for arguments on charge.

9. It is submitted that the instant petition is an abuse of the legal process and has been prematurely filed before this Court. It is further submitted that the issues and arguments raised in the present petition can and should be presented before the learned Trial Court.

10. It is submitted that the present case involves serious allegations of



cheating and criminal breach of trust, which go beyond a mere civil dispute. It is further submitted that the wrongful appropriation of Rs. 2.01 crores along with failure to deliver possession of the land, demonstrates the criminal intent of the petitioner at the outset.

11. It is submitted that at the stage of quashing, the Court is not required to evaluate the sufficiency of evidence and that the material on record *prima facie* establishes a case against the petitioner, thus, warranting a trial. Therefore, it is prayed that the instant petition may be dismissed.

12. Heard learned counsel appearing on behalf of the parties and perused the material available on record.

13. To assess the gravity of the allegations and the findings of the investigation, the relevant portion of the chargesheet is quoted below:

“During the course of investigation IO/SI Rajneesh Kumar examined U/s 161 Cr.PC to Sh. Narender Kumar Tripathi who acknowledged that accused received Rs. 1 crore through cheque and his signature on letter prepared by accused in which accused S.P Chaudhary was handed over the land to complainant in 20 days and if he does not handed over the same no payment was made to him. Later on Sh. N. K. Tripathi knew that this deal between complainant and accused person could not be completed. Accused S.P. Chaudhary also entered into agreement with M/s Sonata Developers for sale of such land and received Rs 1.05 Crore.

Accused has allured to the complainant for this land and received Rs. 2.01 Crore through cheque on 10.11.2005 and 11.11.2005 though he was not having land in his possession nor any contract was produced by him as he was the authorised to receive the money for the piece of land which was not in his name. Accused has acknowledged that he has received the money and shall be hand over the physical



possession of the land within 20 days During further course of investigation other directors of OmG Builders Mr. Deepak Mohan Puri and Mr. Inder Mohan Puri were examined. During investigation it has emerged that the accused person has also allured them too that he is the owner but actually he was developer of this land. During further course of investigation Mr Sohan Raj Surana. Owner of the land was also examined who also stated that accused has malafide intension and he has been evicted from this deal.

There are sufficient evidence to prove allegations of complaint regarding U/s 420/406 IPC against accused column no. 11. Sh. SP Choudhary S/o. Late Ch. Dalel Singh Therefore chargesheet against accused Sh. S.P. Choudhary above has been prepared and submitted for kind perusal please.”

14. Upon perusal of the aforesaid, it is made out that the petitioner had received Rs. 2.01 crores from the complainant through two cheques dated 10th November, 2005 and 11th November, 2005 despite not having ownership or possession of the land he had promised to transfer.

15. PW-2, Narendar Kumar Tripathi, examined under Section 161 of the CrPC, confirmed that he witnessed the accused preparing a letter stating that possession of the land would be handed over within 20 days, failing which no payment would be retained. It was later discovered that the petitioner had also entered into a separate agreement with M/s Sonata Developers, and had received Rs. 1.05 crores for the same piece of land, further raising suspicion of fraudulent intent.

16. Further investigation uncovered that the accused misrepresented his ownership and misled multiple parties. Statements of other directors of OmG Builders, Mr. Deepak Mohan Puri and Mr. Inder Mohan Puri indicated that they too were falsely assured that the petitioner was the owner



of the land. Sohan Raj Surana, the actual landowner, confirmed that the petitioner had no legal authority over the property and was eventually removed from the deal due to his *mala fide* intentions.

17. Based on these findings, the investigating officer concluded that there was sufficient evidence to establish offences under Sections 420 and 406 of the IPC, leading to the filing of the chargesheet against the petitioner.

18. The chargesheet establishes that the petitioner induced the complainant to part with Rs. 2.01 crore under the false assurance of transferring land, which he neither owned nor had the authority to sell. The investigation further revealed that he executed a similar agreement with M/s Sonata Developers, securing an additional Rs. 1.05 crore for the same property. This pattern of deception, coupled with his failure to honor commitments, demonstrates a clear case of dishonest inducement, substantiating the allegations under Section 406 and 420 of the IPC.

19. Having examined the submissions of both the parties and the chargesheet, the key issues which arise for determination before this Court are, *firstly*, whether there exists *prima facie* evidence of criminal wrongdoing to warrant the continuation of proceedings against the petitioner and *secondly*, whether the Delhi Police had the jurisdiction to register and investigate the present case?

20. To determine whether the proceedings should continue, it is essential to assess whether the materials on record establish a *prima facie* case against the petitioner under Sections 420 and 406 of the IPC.

21. The FIR alleges that the petitioner misrepresented ownership of a parcel of land in Jodhpur, Rajasthan, and induced the complainant to pay ₹2.01 crores through two cheques on 10th November, 2005 and 11th



November, 2005.

22. The chargesheet cites statements of Narender Kumar Tripathi, Deepak Mohan Puri, Inder Mohan Puri, and Sohan Raj Surana, which collectively indicate that the petitioner did not have title to the land but assured transfer of possession and that he entered into another agreement with M/s Sonata Developers for the same land, receiving Rs. 1.05 crores.

23. With regard to the principle of quashing, the Hon'ble Supreme Court in ***Veena Mittal v. State of Uttar Pradesh*** (Crl. Appeal No. 122 of 2022) held that:

“At the stage when the High Court considers a petition for quashing criminal proceedings under Section 482 of the CrPC, the allegations in the FIR must be read as they stand, and it is only if on the face of the allegations that no offence, as alleged, has been made out, that the Court may be justified in exercising its jurisdiction to quash.”

24. Applying the principle laid down in the abovementioned precedent, it is evident that at the stage of quashing, the FIR and the chargesheet must be read as they stand, without engaging in an in-depth analysis of the sufficiency of evidence or the probability of conviction.

25. In the present case, the FIR clearly alleges that the petitioner induced the complainant to pay ₹2.01 crores despite lacking ownership or possession of the land. The chargesheet further corroborates this with witness statements and banking records, indicating a *prima facie* case of dishonest inducement and misappropriation.

26. Since the FIR was lodged in Delhi while the alleged transaction pertains to Jodhpur, Rajasthan, it is essential to determine whether the Delhi Police had the requisite jurisdiction to investigate and prosecute the case.



27. At this stage, this Court deems it appropriate to list out the facts relevant to this issue, which are:

- a. The complainant is based in New Delhi, and the alleged inducement leading to payment of ₹2.01 crores took place in Delhi.
- b. The cheques issued to the petitioner were drawn on a bank in Delhi, and the financial transaction occurred within the jurisdiction of Delhi Police.
- c. The consequences of the alleged offense, namely the financial loss suffered by the complainant, occurred in Delhi, bringing the case within the ambit of Section 179 of the CrPC.

28. Given that the inducement, payment, and resulting harm; all have a nexus to Delhi, the Delhi Police had the territorial jurisdiction to register the FIR and investigate the matter. Thus, the ground of the petitioner regarding Delhi Police not having jurisdiction to investigate this case is without any merit.

29. The Hon'ble Supreme Court in *Mahendra K.C. v. State of Karnataka (2022) 2 SCC 129*, reiterated the principles governing the exercise of inherent powers for quashing criminal proceedings, emphasizing that such jurisdiction must be exercised sparingly, with caution, and only in cases where the allegations, even if taken at face value, do not disclose any cognizable offense.

30. In the present case, the FIR and chargesheet establish a *prima facie* case against the petitioner, warranting adjudication at trial rather than interference at the threshold.

31. In light of the allegations in the FIR and the chargesheet, this Court finds that *prima facie* offences punishable under Sections 406 and 420 of



the IPC are made out.

32. Accordingly, this Court does not find any compelling or legally justifiable reason to exercise its extraordinary jurisdiction in this matter. The petitioner has failed to establish any exceptional circumstances that would warrant interference at this stage, especially when an alternative and efficacious remedy is available before the trial court.

33. Accordingly, the instant petition stands dismissed along with the pending applications, if any.

CHANDRA DHARI SINGH, J

FEBRUARY 19, 2025

rk/kj/ryp

Click here to check corrigendum, if any