



2025:DHC:11369



IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment reserved on: 25.09.2025

Judgment delivered on: 15.12.2025

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W.P.(CRL) 2331/2025, CRL.M.A. 21750/2025 & CRL.M.A. 21751/2025

NBCC (I) LTD.

..... Petitioner

versus

**STATE (GOVT. OF NCT OF
DELHI) & ANR.**

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Brijender Chahar, ASG (through VC)
with Mr. Gudipati Gayatri Kashyap, Mr.
Ranvijay Gohain & Mr. Sarvesh Chaubey,
Advs.

For the Respondents : Mr. Sanjeev Bhandari, ASC for the State
with Mr. Arjit Sharma & Ms. Sakshi Jha,
Advs.

SI Rajnish, PS- Lodhi Colony

Complainant in person

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HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present petition has been filed by the petitioner under Article 226 of the Constitution of India, 1950 read with Section 528 of

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SEHGAL
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the Bharatiya Nagarik Suraksha Sanhita (**‘BNSS’**) seeking quashing of FIR No. 203/2024 dated 28.11.2024, registered at Police Station Lodi Colony for the offence under Section 420 of the Indian Penal Code, 1860 (**‘IPC’**) including all consequential proceedings arising therefrom.

2. The FIR was registered pursuant to order dated 19.10.2024 passed by the learned Judicial Magistrate First Class (**‘JMFC’**), South-East District, Saket Courts, New Delhi in an application filed by Respondent No. 2 under Section 156(3) of the Code of Criminal Procedure, 1973 (**‘CrPC’**).

3. The brief facts are that Respondent No. 2 had booked an apartment on 23.06.2012 in the project being “NBCC Green View Apartments, Sector 37-D, Gurgaon, Haryana” that was developed by the petitioner. Respondent No. 2 had paid a total consideration amount of ₹76,85,576/- to the petitioner and was thereafter issued a “No Dues Certificate” by the petitioner on 21.10.2021. Consequently, Respondent No. 2 was issued an “Allotment Letter” on 02.11.2021 by the petitioner.

4. Thereafter, residents of the aforesaid project started complaining about structural defects in the buildings, whereafter, the petitioner engaged structural experts from Indian Institute of Technology, Delhi who in their report dated 17.11.2021 recommended extensive repairs to the project. Pursuant to which, the petitioner issued notice dated 18.11.2021 to all the residents requesting them to vacate the complex by 23.11.2021.



5. Respondent No. 2 *vide* his email dated 23.11.2021 gave his consent to the petitioner to vacate the temporary allotted flat. It is pertinent to note that the petitioner filed a civil suit being CS (Comm) 153/2023 against the contractors of the said project namely, M/s Supreme Infrastructure India Limited and M/s Ramacivil India Construction Pvt. Ltd., which is still pending adjudication before this Court.

6. The petitioner, thereafter, on 29.07.2022 shared an offer letter to Respondent No. 2 offering a refund of amount equal to the consideration that was paid by Respondent No. 2 to the petitioner as well as charges on delayed payment, if any, paid by Respondent No. 2 to the petitioner.

7. Respondent No. 2, thereafter, filed a Writ Petition being W.P(C) 824/2023 before this Court seeking the following prayers:

- “i. Direct the respondents to provide an alternate flat with the aforementioned positioning and in vicinity as that of flat which was booked by the petitioners in their project namely NBCC Green view Apartments bearing Flat No. C2.3, TYPE-D.*
- ii. Or alternatively, direct the respondents to refund the amount paid by the petitioners with reciprocal interest @ 15% per annum and with compensation of Rs.50,00,000/- for mental torture, agony, and harassment; and to pay extra compensation as per Annexure P-18*
- iii. Pass such other and further order as this Hon'ble Court may deem fit and proper in the interest of justice.”*

8. The Co-ordinate Bench of this Court *vide* judgment dated 08.05.2024 allowed the writ petition filed by Respondent No. 2 and thereby directed the petitioner to refund the entire amount paid by



Respondent No. 2 along with interest @ 12% from 30.01.2021 till the date of the said judgment.

9. Respondent No. 2, thereafter, preferred an application seeking rectification of the judgment dated 08.05.2024. By order dated 27.05.2024 a Co-ordinate bench of this Court dismissed the application filed by Respondent No. 2 noting that the application filed by Respondent No. 2 is an application seeking review in guise of an application seeking rectification and the judgment dated 08.05.2024 does not require any modification.

10. The petitioner, thereafter on 18.06.2024, in compliance of the judgment passed by this Court in W.P(C) 824/2023 transferred an amount of ₹1,12,03,766/- in the bank account of Respondent No. 2.

11. The petitioner, thereafter, conducted various internal audits and enquiries, pursuant to which the petitioner preferred a complaint to the Central Bureau of Investigation against the contractors, sub-contractors and employees of the petitioner regarding poor quality of materials used for developing the project.

12. Thereafter, on 29.08.2024 the Central Bureau of Investigation pursuant to the aforesaid complaint filed by the petitioner registered an FIR bearing No. RCCHG2024A0027 for the offences under Sections 120B/420 of the IPC and Sections 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 ('**PC Act**') against the contractors, sub-contractors and employees of the petitioner.

13. It is pertinent to mention that Respondent No. 2 has preferred an appeal being L.P.A No. 842/2024 which is pending consideration



before this Court. Respondent No. 2, thereafter, preferred an application under Section 156(3) of the CrPC before the learned JMFC seeking registration of FIR against the petitioner alleging that the petitioner despite issuing a 'Possession Certificate' failed to give possession of the flat that was booked by Respondent No. 2.

14. As noted above, the learned JMFC by order dated 19.10.2024 allowed the application filed by Respondent No. 2 and directed registration of FIR against the petitioner. The learned JMFC noted that the petitioner had complete knowledge that the building suffered from structural defects and Respondent No. 2 was duped into purchasing a flat in the said project. Pursuant to which the subject FIR was registered.

15. The learned Additional Solicitor General ('ASG') for the petitioner submitted that Respondent No. 2 has suppressed material facts before the learned JMFC. He submitted that Respondent No. 2 has already been granted relief by judgment dated 08.05.2024, passed by a Co-ordinate bench of this Court in W.P(C) 824/2023. He submitted that Respondent No. 2 has preferred an appeal against the judgment dated 08.05.2024 being L.P.A No. 842/2024 which is still pending consideration before this Court and is trying to give a civil dispute criminal colours.

16. He submitted that in compliance of the judgment dated 08.05.2024 passed by a Co-ordinate Bench of this Court in W.P(C) 824/2023, the petitioner has already transferred an amount of ₹1,12,03,766/- in the bank account of Respondent No. 2 and all his



grievances stand settled and the present FIR is an attempt to extort more money from the petitioner.

17. He submitted that the Central Bureau of Investigation in pursuance to a complaint made by the petitioner has already registered an FIR against the contractors, sub-contractors and employees of the petitioner regarding the same cause of action.

18. He submitted that continuance of multiple FIRs for the same cause of action and allegations would lead to abuse of process of law as well as precious judicial time.

19. *Per contra*, Respondent No. 2 appears in person and vehemently opposed the arguments as raised by the learned ASG for the petitioner. He consequently prayed that the present petition be dismissed.

Analysis

20. It is relevant to note that the petitioner has invoked the inherent jurisdiction of this Court under Article 226 of the Constitution of India, 1950 seeking quashing of the present FIR. While this Court needs to exercise restraint in stifling prosecution, however, the inherent jurisdiction can be exercised if it is found that the continuance of criminal proceedings would be a clear abuse of process of law. The Hon'ble Apex Court, in the case of ***State of Haryana v. Bhajan Lal : 1992 Supp (1) SCC 335***, had noted certain categories of cases where the inherent jurisdiction can be exercised to prevent abuse of process of law and secure the ends of justice. The relevant portion of the judgment is reproduced hereunder:



“102...(1) Where the allegations made in the first information report or 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 a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

(emphasis supplied)

21. The Hon’ble Apex Court, in the case of **Indian Oil Corporation v. NEPC India Limited and Others : (2006) 6 SCC 736**, had also discussed the scope of jurisdiction under Section 482 of the CrPC [Section 528 of the BNSS] to quash criminal proceedings. The relevant portion of the same is reproduced hereunder:

“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 Chandrojjirao 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 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)

22. It is true that in case it is found that the proceedings are manifestly frivolous or vexatious or are instituted with the ulterior motive of wreaking vengeance, this Court ought to look into the FIR with care and little more closely. The Court can look into the attending circumstances emerging from the record of the case and can read between the lines. If the allegations are far-fetched and it appears that the provisions of Section 420 of the IPC are misused, the Court can interfere while exercising its inherent powers [Ref. ***Mahmood Ali & Ors. v. State of U.P & Ors. : 2023 SCC OnLine SC 950***; ***Abhishek v. State of Madhya Pradesh : 2023 SCC OnLine SC 1083*** and ***Kahkashan Kausar @ Sonam & Ors. v. State of Bihar & Ors. : (2022) 6 SCC 599***].

23. It is the case of Respondent No. 2 that he had booked a flat in a project that was being developed by the petitioner. Despite paying the entire consideration amount, Respondent No. 2 was not given possession of the flat. Thereafter, on complaints of other residents regarding structural defects, the petitioner hired experts from Indian Institute of Technology, Delhi who in their report advised extensive



repairs to the said project. Allegedly, the petitioner kept on giving false promises to Respondent No. 2 that the flat is ready and also issued a Possession Certificate to him, however, the petitioner never gave possession of the said flat. Respondent No. 2 further alleged that the petitioner was already aware of the structural defects and deceived Respondent No. 2 into purchasing a flat in the project.

24. In the present case, the learned JMFC while directing registration of FIR against the petitioner noted that Respondent No. 2 was cheated by the petitioner into firstly, purchasing a flat in the project and secondly, was given false promises regarding possession of the said flat.

25. To constitute the offence of cheating, the element of *fraudulent or dishonest intention* must exist from the beginning. Essentially, Respondent No. 2 is aggrieved that despite issuing a Possession Certificate in his favour, the petitioner failed to provide the possession of the flat that was booked. The same amounts to breach of the agreement between the parties. Although presence of civil remedies does not preclude continuation of criminal proceedings, mere breach of an agreement or contract does not give rise to the offence of cheating and it is to be shown that the accused had a dishonest intention at the time of making the promise. In the case of ***Vesa Holdings (P) Ltd. v. State of Kerala : (2015) 8 SCC 293***, the Hon'ble Apex Court held as under:

*“12. From the decisions cited by the appellant, the settled proposition of law is that **every breach of contract would not give rise to an offence of cheating and only in those cases breach of***



contract would amount to cheating where there was any deception played at the very inception. *If the intention to cheat has developed later on, the same cannot amount to cheating. In other words for the purpose of constituting an offence of cheating, the complainant is required to show that the accused had fraudulent or dishonest intention at the time of making promise or representation. Even in a case where allegations are made in regard to failure on the part of the accused to keep his promise, in the absence of a culpable intention at the time of making initial promise being absent, no offence under Section 420 of the Penal Code, 1860 can be said to have been made out.”*

(emphasis supplied)

26. It was argued by the learned ASG for the petitioner that Respondent No. 2 is trying to give a civil dispute criminal colours. He contended that Respondent No. 2 had already been granted relief by judgement dated 08.05.2024 passed by a Co-ordinate bench of this Court in W.P(C) 824/2023.

27. Undisputedly, Respondent No. 2 being aggrieved, of not being given possession of the flat as booked by him, had preferred a writ petition being W.P(C) 824/2023 before this Court. This Court by judgment dated 08.05.2024 had allowed the petition filed by Respondent No. 2 and directed the petitioner to pay the entire amount paid by Respondent No. 2 at the time of booking the flat along with interest @ 12% from 30.01.2012.

28. The petitioner in compliance of the aforesaid judgment by communication dated 18.06.2024 had deposited an amount of ₹1,12,03,766/- in the bank account of Respondent No. 2. Even, the enquiry conducted by the police after registration of FIR records that the said amount had been paid by the petitioner to Respondent No. 2.

29. It is also relevant to note that Respondent No. 2 had instituted a



contempt petition against the petitioner being CONT.CAS(C) 1294/2023 on account of non-compliance with the directions of this Court by the petitioner. However, the Co-ordinate bench of this Court while disposing of the writ petition filed by Respondent No. 2, dismissed the contempt petition preferred by Respondent No. 2 noting that the petitioner had made endeavours to provide an alternative accommodation to Respondent No. 2, however, he himself was not satisfied with the same on the ground that they were not of the same value or in the same vicinity as the flat booked by Respondent No. 2.

30. The dispute in the present case is essentially civil in nature. It is well-settled that criminal proceedings ought not to be weaponised to wreak vengeance or harass the other side. In the case of ***Paramjeet Batra v. State of Uttarakhand: (2013) 11 SCC 673***, the Hon'ble Apex Court had noted that where the allegations are essentially of a civil nature, the High Court should not hesitate to quash the proceedings. The relevant portion of the judgment is as under:

*“12. While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. **But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence.** In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process of the court.”*

(emphasis supplied)



31. Undisputedly, attempts were made by the petitioner to provide an alternate accommodation to Respondent No. 2, however, he himself was not agreeable to the flats as shown by the petitioner. Even otherwise, the enquiry conducted by the police after registration of the subject FIR records that the dispute between the parties is civil in nature and there is no criminality in the same.

32. *Prima facie*, even at their highest, the allegations do not disclose an element of criminality and commission of a cognizable offence, in such circumstances, continuation of proceedings against the petitioner would be an abuse of the process of law and merits the exercise of the jurisdiction of this Court under Section 528 of the BNSS.

33. In view of the aforesaid discussion, the present petition is allowed and FIR No. 203/2024 dated 28.11.2024, registered at Police Station Lodi Colony for the offence under Section 420 of the IPC including all consequential proceedings arising therefrom are quashed. Pending applications also stand disposed of.

AMIT MAHAJAN, J

DECEMBER 15, 2025

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