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

\+ CRL.M.C. 6427/2025, CRL.M.A. 27126/2025, CRL.M.A. 27127/2025 & CRL.M.A. 27128/2025

MS. POOJA GARG. .....Petitioner

Through: Mr. Kushagra Pandey and Mr. Ved P Singh, Advocates.

versus

THE STATE GOVT OF NCT DELHI AND ANR ...Respondents

Through: Mr. Amit Ahlawat, APP for the State along with SI Anil, PS Seemapuri.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

<u>O R D E R</u>

% **11.09.2025**

1. The present petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023[1] (formerly Section 482 of the Code of Criminal Procedure, 1973[2]) seeks quashing of FIR No. 661/2025 dated 29th August, 2025 registered under Sections 420/34 of the Indian Penal Code, 1860[3], at P.S. Seemapuri and all consequential proceedings emanating therefrom.

2. The FIR has been registered pursuant to an order passed by the jurisdictional Magistrate under Section 156(3) of the Cr.P.C. pursuant to a complaint filed by Respondent No. 2.

3. In brief, the case of the Complainant is as follows:

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[1] "BNSS"
[2] "Cr.P.C"
[3] "IPC"

3.1. The Complainant's late father instituted Civil Suit against the accused, Pradeep Kumar Jain, seeking ejectment, recovery of arrears of rent, damages and permanent injunction in respect of property bearing No. M-3/A-2, Main Road, Dilshad Garden, Delhi-95. The case of the Complainant's father was that the suit property had been let out on 7th August, 2008 at a rent of ₹32,000/- per month, exclusive of electricity and other charges. In defence, the accused asserted that he had been inducted as tenant at a rent of only ₹1,500/- per month.

3.2. During the pendency of the trial, the Complainant's father passed away on 3rd September, 2018, leaving behind the Complainant (son), Smt. Heema Devi (widow), and Smt. Rajni Ahuja (daughter), as his legal heirs. The suit was ultimately decreed in favour of the Complainant's father *vide* judgment dated 23rd August, 2023. However, the accused neither vacated the property nor complied with the directions regarding payment of dues. Consequently, the Complainant and other legal heirs instituted Execution Petition, wherein the Court, by order dated 2nd February, 2024, appointed a bailiff with police aid to take possession of the property and hand it over to the decree-holders.

3.3. The Complainant further alleges that, during this period, Pradeep Kumar Jain raised an illegal wall within the suit property and converted a portion thereof into a shop, over which he installed a display board. When the bailiff visited the premises along with the Complainant, it was found that a room measuring 12 ft. by 9 ft. had been amalgamated with the adjoining premises occupied by "Verma Jewellers," allegedly run by accused Nos. 3 to 5, for several years.

3.4. On inquiry by the Bailiff, the Petitioner (Pooja Garg, identified as accused No. 2) claimed ownership of part of the property (No. M-1/A-2/1, admeasuring 27 sq. yds.) on the strength of GPA, Agreement to Sell, Receipt, Will, and electricity bill (CA No. 154319627) executed in her favour by Shankar Lal (accused No. 6) on 8th June, 2001.

3.5. The Complaint alleges that Mr. Pradeep Kumar Jain and the Petitioner had committed forgery and created the false documents and as a result, the part possession of the property of the Complainant bearing property No. M-3/A2 was given to the Petitioner, as well as possession of room size 12X9 feet to the owner of Verma Jewellers, *i.e.,* accused Nos. 3 to 5. It is also submitted that the accused also fraudulently obtained electricity bill for the property in question.

3.6. Thereafter, on 11th October, 2023, 22nd December, 2023 and 27th February, 2024, the Complainant again gave written complaints to the SHO and on 04th March, 2024 to the superior officials, but no action was taken.

4. On the aforenoted complaint, the Magistrate called for an Action Taken Report. The Report reiterated the allegations of the Complainant and noted that the Petitioner had failed to join the enquiry. It further recorded that the Enquiry Officer obtained a communication from the DDA confirming that Flat No. M-1/A-2/1, Ground Floor, Janta Flat, Main Road, Dilshad Garden, purportedly forming the basis of her claim, does not exist. It also emerged that the claim to such disputed property arose only after the decree was passed in favour of the Complainant's father and during the pendency of the civil proceedings, suggesting a colourable attempt to frustrate the decree. Moreover, Shankar Lal, the person from whom the Petitioner claimed to have purchased the alleged property, could not be traced at the address furnished. These findings clearly indicate that the

evidence is not within the personal reach of the Complainant and that field-level investigation by the police is required, particularly in light of the peculiar circumstances of the case.

5. Upon perusal of the report, and finding that the allegations *prima facie* disclosed the commission of a cognizable offence, the Magistrate, relying on the guidelines laid down in ***Lalita Kumari v. Government of U.P. & Ors.***,[4] directed the SHO, P.S. Seemapuri, to register an FIR and undertake investigation in accordance with law, with liberty to invoke appropriate offences as may emerge. The order further recorded that, should investigation reveal that no offence was made out or that the alleged person remained untraceable, a report to that effect could be filed before the competent court. The Complainant was also directed to join the investigation.

6. Consequent to the aforenoted directions, the subject FIR came to be registered on 29th August, 2025.

7. The Petitioner has invoked the extraordinary jurisdiction of this Court under 528 BNSS, setting out her version of the facts. It is contended that the Petitioner is the lawful owner in possession of the subject property and relies on ownership documents to substantiate her claim. It is further alleged by the Petitioner that the dispute is essentially civil in nature, arising out of landlord-tenant and ownership issues already pending before the Civil Court. According to her, Respondent No. 2 has attempted to give a colour of criminality to what is, at its core, a civil dispute regarding possession and ownership, by invoking the criminal process. On this basis, it is urged that even if the complaint is read at its face value, no ingredients of the alleged

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[4] (2014) 2 SCC 1.

offences are made out against the Petitioner. She asserts that she is in continuous lawful possession of the property and that the institution of the present FIR amounts to an abuse of the criminal process.

8. It is true that Courts have consistently cautioned against the tendency of litigants to give civil disputes the colour of criminal offences in order to exert pressure on the opposite party. However, this principle does not confer blanket immunity where the allegations, on their face, disclose acts that amount to forgery and fabrication of documents.

9. The Petitioner has pressed that the dispute is quintessentially civil, already governed by a decree and pending execution; the FIR, it is urged, is a device to criminalise what is at most an issue of possession and title. This contention, stated at its highest, does not, at this incipient stage, justify interdiction. The law is settled that the existence of civil remedies or even a subsisting civil decree is not, by itself, a bar to registration or investigation of cognizable offences where the factual allegations disclose ingredients of cheating, forgery or use of forged documents. Equally, this Court cannot, in a quashing petition, pronounce upon title or to convert the criminal process into a collateral forum for enforcing or resisting the civil decree. In the present case, the complaint and the Action Taken Report *prima facie* suggest creation of false ownership documents, and misrepresentation before authorities. These matters cannot be brushed aside as purely civil in nature and warrant a fair investigation.

10. At the threshold, the Court drew counsel's attention to the circumscribed remit at a nascent stage of investigation. The FIR has been registered only on 29th August, 2025 pursuant to an order under Section 156(3) Cr.P.C./175(3) BNSS; the police have scarcely set the investigative

machinery in motion. In such circumstances, the Supreme Court has repeatedly cautioned High Courts against interdicting investigation save in the rarest cases. The extraordinary power under Section 528 BNSS (*pari materia* Section 482 CrPC) is to be used sparingly; it is not a tool to seek a pre-trial enquiry or to weigh defence material at the threshold.

11. On that note, the counsel clarified that he is not seeking stay of investigation, and this Court must at least call for a status/action taken report from the State, before forming an opinion. The request is misconceived. Once an FIR stands registered, calling for periodic status reports at the behest of an accused, before the police have even had an opportunity to gather basic facts, amounts to supervisory monitoring of investigation, which the High Court must eschew at this stage. The proper course is for the Petitioner to place all relied-upon title papers, electricity records, and other documents before the Investigating Officer, who is duty-bound to examine both inculpatory and exculpatory material under Sections 157 and 173 Cr.P.C./176 and 193 BNSS. If, upon fair investigation, no offence is made out, a closure report can always be filed before the Magistrate. To the same end, the IO shall consider any material tendered by the Petitioner and deal with it in the final report.

12. The argument that material facts were "concealed" from the Magistrate while moving the Section 156(3) Cr.P.C. application also does not advance the Petitioner's case at this stage. The Magistrate called for, and considered, an Action Taken Report. That report flagged (i) non-cooperation of the proposed purchaser, (ii) a DDA communication that the flat number relied upon does not exist, and (iii) inability to trace the very vendor whose documents are invoked to justify the post-decree possession. On that basis,

the Magistrate formed a *prima facie* view that a cognizable offence was disclosed and directed registration of the FIR. Whether the Petitioner's documents ultimately withstand scrutiny is a matter for investigation and, if necessary, trial, and not a ground to abort investigation at inception.

13. The submission that Section 420 IPC is "not attracted" even on a plain reading also does not advance the case of the Petitioner. At this point, the Court is not required to deliver a definitive pronouncement on the exact penal provisions; it suffices that the allegations of fabrication/forgery of ownership papers, carving out/merging portions after a civil decree, and securing utilities on that footing cross the threshold of disclosing cognizable offences. It is trite that the precise sections invoked at FIR stage may be added, altered, or pared down based on the outcome of investigation.

14. In view of the foregoing, no case is made out for quashing the FIR or for interdicting investigation at this stage. The petition is dismissed, with liberty to the Petitioner to submit all material to the IO, who shall conduct a fair, expeditious, and impartial investigation and file the appropriate report before the jurisdictional Magistrate. No opinion on merits.

15. It is clarified that nothing in this order expresses any view on the merits of title or possession; those questions lie within the domain of the civil court and will not be prejudiced by the present order. The police retain full authority to investigate cognizable offences.

16. With the above observations, the present petition is disposed of, along with pending applications.

SANJEEV NARULA, J

SEPTEMBER 11, 2025/ab