



\$~26

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

+ **CRL.M.C. 2248/2013 & CRL.M.A. 8722/2013**

SANJAY GARG

.....Petitioner

Through: Mr. Rajat Aneja, Mr. Chanoriha
Gupta and Mr. Saubhagya Chauriha,
Advocates.

versus

STATE & ORS.

.....Respondents

Through: Ms. Priyanka Dalal, APP for the State
along with SI Priyaka, PS Shahdara.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

28.10.2025

%

1. The present petition under Section 482 of the Code of Criminal Procedure, 1973¹ seeks quashing of Criminal Complaint No. 741/2011 filed by Respondents No. 2 to 4 with the Additional Chief Metropolitan Magistrate, Karkardooma Courts, Delhi, under Sections 420, 468, 471, 406, 341, 448 and 379 of the Indian Penal Code, 1860², and all consequential proceedings emanating therefrom.

2. The dispute concerns property bearing No. 1/5542, Govind Marg, Balbir Nagar Extension, Shahdara, Delhi, admeasuring 144 sq. yards, originally owned by Ms. Padmawati (since deceased).

3. On 9th June, 2009, Ms. Padmawati executed a Will bequeathing the property to her four sons: the Petitioner (Sanjay Garg), Respondents No. 3 and 4 (Mukesh and Praveen Garg) and Ajay Garg. She later revoked that Will and, on 8th June, 2010, executed a registered Gift Deed in favour of the

¹ "CrPC"



Petitioner. She subsequently acknowledged that she had executed and registered the instrument before the Sub-Registrar, but asserted that she did so under a mistaken belief that it pertained to correction of title records. On 28th February, 2011, upon learning that the instrument was in fact a Gift Deed, she lodged a police complaint (DD No. 35B dated 8th March, 2011) at P.S. Shahdara. When no action followed, she filed a private complaint under Section 200 CrPC, which is now under challenge.

4. Upon consideration of the pre-summoning material, the Trial Court, while observing that no evidence was found for the offences under Sections 468, 471, 406 or 341 IPC, took cognizance and issued summons to the Petitioner for the offences under Sections 420 and 448 IPC.

5. The complaint, in essence, alleges that the Petitioner procured the Gift Deed by deception, committed trespass and theft thereafter, and disobeyed a *status quo* order. The pleading recounts police complaints, a civil suit for cancellation of the Gift Deed, alleged threats, and an incident of breaking locks with removal of movables as follows:

“5. That thereafter on 8-6-2010 the accused Sanjay Garg alongwith Shri. Suraj Bhan Garg took the complainant to the Registrar Office at Nand Nagri Delhi and the accused mis-represented the complainant by falsely stating to the complainant that there was some mistake remained in the title of documents of the property and the same are yet to be corrected. However the complainant Smt. Padmawati is an illiterate lady. The accused Sanjay Garg obtained some signature of complainant Smt. Padmawati on various papers for which the complainant was un-known. However the complainant signed all those papers which were produced before her by Accused Sanjay Garg. Later on it was revealed that the accused Sanjay Gar obtained Gift Deed dt. 8-6-2010 on the basis of the signature which were obtained by Sanjay Garg at the office of S.R. Nand Nagari by playing fraud and mis-representation. The complainant had full faith on her husband Suraj Bhan and his son Sanjay Garg. The accused Sanjay Garg

² “IPC”



obtained Gift Deed dt. 8-6-2010 vide its Registration No.2421 in Addl. Book No. 1 Vol. No. 777, Page No. 58 to 65 dt. 8-6-2010. The complainant Smt. Padmawati only came to know about the said fraud and criminal breach of trust as made by accused Sanjay Garg with criminal conspiracy of Shri Suraj Bhan only on 28-2-2011 through her son Shri Praveen Kumr Garg and Shri. Mukesh Garg i.e .Complainant No. 2& 3 also come to know about the said fraud from the property dealer i.e. Shri. Mohan Lai Tiwari and Shri Girdhari Lai Tiwari who used to come at the premises and they were intended to purchase the said property. The said property dealer made the contact from the complainants and they provided photocopy of the said offensive documents i.e. Gift Deed. However, the Original Gift Deed is lying with the accused Sanjay Garg.

6. That the complainant Smt. Padmawati lodged the complaint for the same at P.S. Shahdara, vide D.D. No. 35B dt.8-3-2011. But the Police didn't take any action. Many other complaints were also lodged at P.S. Shahdara against the accused but the Police didn't take any action against the accused so far.

7. That a legal notice dt. 14-3-2011 was also sent to the accused but the complainant Smt. Padmawati didn't receive any response of the same. Hence Smt. Padmawati filed a civil suit for declaration and cancellation of the Gift Deed and Registered WILL vide Civil Suithlo. 1080/2011 titled Smt. Padmawati V/s Sanjay Garg. The said suit is still pending for disposal in the Hon'ble High Court of Delhi. During the pendency of the Civil Suit in the Hon'ble High Court of Delhi it was further revealed that the Registered WILL dt.9-6-2009 was also cancelled by accused Sanjay Garg on 8-6-2010 i.e. the same day. Hence the accused Sanjay Garg committed the offences of fraud and criminal breach of trust from the complainant Smt. Padmawati by obtaining the signature of the complainant Smt. Padmawati on the basis of false representation and cancellation of the previous WILL and obtained Gift Deed. It is pertinent to mention here that the Hon'ble High Court of Delhi on 6-5-2011 considered the stay Application of Complainant Smt. Padmawati vide LA. No. 7243/011 and the Hon'ble High Court of Delhi granted status qua order dt.6-5-2011 as on that day in respect of title, possession of suit property.

8. That frequently and just to save his own skin, the Defendant had shifted from the premises on 30-3-2011 and he went to 1/10837A, Gali No. 4, Subhash Park, Shahdara, Delhi-110032. However, the Accused and his family members used to come and stay in premises in question sometimes in day time and sometimes at night.

9. That on 19-06-2011 the accused left the complainant Smt. Padmawati alone in the suit premises after raising big quarrel with the complainant Smt. Padmawati. Thereafter the accused Sanjay Garg



and his family members as well as the husband of complainant didn't turn up in the property in question. Hence the complainant Smt. Padmawati was alone in the said premises.

10. That on 21-6-2011, the accused Sanjay Garg along Ajay Garg and Shri. Suraj Bhan came to the complainant at the premises in question and they were pressuring the complainant to withdraw the suit from the Hon'ble High Court of Delhi. When the complainant Smt. Padmawati refused for the same, they issued threat to the complainant for dire consequences.

11. That the complainant Smt. Padmawati was feeling un-safe in the property in question. Hence the complainant called her two sons i.e. complainant No. 2 & 3. The accused was planning to kill or kidnap the complainant Smt. Padmawati. Hence under compelling circumstances and for her own safety, the complainant Smt. Padmawati went with her son Praveen Kumar Garg at his residence on 23-6-2011. The complainant Smt. Padmawati locked the premises in respect of her portion and the main gate and the key was/is lying with the complainant Smt. Padmawati. Thereafter the accused Sanjay Garg was trying to criminal trespass in the property in question for which the complainant Smt. Padmawati sent a complaint to S.H.O. P.S. Shahdara, Delhi on 24-6-2011 through her Counsel Shri. O.P. Aggarwal Adv.

12. That thereafter on 31-8-2011 late at night the accused along with 7-8 other persons came at the premises in question and they all broke open the locks of the premises and they entered into the premises in the absence of complainants. Moreover, the accused and his associates broke open the lock of the room of complainant and they stole all the belongings of the complainant Smt. Padmawati as mentioned in Annexure 'A' enclosed herewith. The accused Sanjay Garg changed the lock of that room. Hence Sanjay Garg dis-obeyed the order of the Hon'ble High Court of Delhi for which contempt petition is pending for disposal.

13. That on 1-9-2011, the complainant lodged the complaint through Complainants No. 2 & 3 at P.S. Shahdara, Delhi vide DD No. 27B at 10:40 A.M. dt.1-9-2011. Prior to it on 31-8-2011 at about 10:50 P.M., the complainant No. 3 called the police on telephone and the Police came at the spot on 31-8-2011 but no action was taken by Police on the false pretext that dispute is pending in the Court. However, the complainants are having the entire video and Photography of the same.

14. That thereafter on 11-9-2011 two property dealers abovenamed came to the complainants to know about the status of High Court case and the complainants informed them about the status of High Court



case as well as contempt proceedings.

15. That on 21-10-2011 all the complainants reached at the premises in question for cleaning the premises for Diwali Festival but the accused Sanjay Garg locked the main gate and he didn't allow the complainants to enter in their own premises for which the accused called the police at the spot but no action was taken by Police so far.

16. That thereafter on 22-10-2011 all the complainant made the contact from their counsel. As per his advice the complainant lodged the complaint against the accused Sanjay Garg to the Commissioner of Police Delhi and S.H.O. P.S. Shahdara, all together and the copy of the same was also sent to the accused for information purpose on 24-10-2011 vide speed post. Inspite of the complainant received by S.H.O. P.S. Shahdara, Delhi and The Commissioner of Police Delhi on 24-10-2011 the complainants didn't receive any response so far. Hence the present complaint.

17. That the accused Sanjay Garg has committed the offences U/s 420/468/471/341/406/448/379 of IPG within the local jurisdiction of the P.S.: Shahdara, Delhi and the Hon'ble Court is having jurisdiction to try and entertain the present complaint.

It is, therefore, most respectfully prayed that the proceedings U/s 156 (3) of CRPC may be initiated with the direction to S.H.O. P.S. Shahdara, Delhi for the registration of the case against accused U/s 420/468/471/341/406/448/379 of IPG and the accused may be taken, into custody for interrogation and the accused may be prosecuted and punished under the abovesaid provisions or other relevant provision as the Hon'ble Court may deem fit and proper under the abovementioned circumstances of the case and also in the interest of Justice.” [SIC]

6. Indeed, Ms. Padmawati instituted CS (OS) No. 1080/2011 titled ***Padmawati v. Sanjay Garg & Anr.*** before this Court seeking cancellation of the Gift Deed dated 8th June, 2010, on the plea of misrepresentation and fraud. That suit, later transferred to the Karkardooma District Court and renumbered as CS No. 1882/2016, has since been prosecuted by her legal representatives upon her demise, namely Mukesh and Praveen Garg (Respondents No. 3 and 4).

7. The civil suit thus directly addressed title and the validity of the Gift



Deed, while the criminal complaint overlays the same property dispute with allegations of cheating, trespass, theft, and breach of trust. After a full trial on the basis of pleadings, oral and documentary evidence, the Civil Court by judgment dated 19th July, 2025, rejected the plea of misrepresentation and fraud. The Court held that the plaintiff/LRs (Respondents No. 2 to 4) had failed to establish any ground to annul the Gift Deed and dismissed the suit, directing return of the original Will, its cancellation deed, and the Gift Deed to defendant No. 1 (the present Petitioner). The operative portion of the order records:

*“48. Considering the facts and circumstances of the case, material came on record and in view of the above observations and discussions, this Court concludes that plaintiff or LRs of plaintiffs have failed to prove her/their case of 'misrepresentation' and 'fraud' and therefore, plaintiff/LRs of plaintiff are not found entitle for the decree of declaration/cancellation of gift deed **Ex.PW1/X-2**, decree of mandatory injunction and decree of permanent injunction as prayed, thus, the suit of the plaintiff/LRs of plaintiff stands dismissed being meritless. **Issue No.1 to 3 are accordingly decided against plaintiff/LRs of plaintiff and in favour of defendants.***

49. The suit of the plaintiff is accordingly dismissed and disposed of. Parties shall bear their respective cost. Original Will dated 09.06.2009, original cancellation of Will dated 08.06.2010 and original gift deed dated 08.06.2010 be returned to defendant no.1 upon furnishing of their certified copies.”

Analysis

8. Respondent No. 3 appeared before this Court on 11th July, 2024 *via* video conferencing and expressly stated that he has no objection to the petition being allowed. Respondent No. 4, though duly served (as recorded in the order dated 19th March, 2025), has chosen not to contest.

9. Two well-settled principles guide the exercise of jurisdiction under Section 482 CrPC. First, criminal proceedings ought not to be permitted



where the allegations are essentially civil in character and the necessary ingredients of the penal provisions are not disclosed on a *prima facie* reading. Secondly, where the substratum of the charge stands demolished by findings of a competent civil court after a full contest, allowing a criminal case on the same facts to linger becomes oppressive and an abuse of process.

10. The findings in a civil action do not *ipso facto* conclude a pending criminal case, yet they are a relevant consideration when they demolish the very foundation of the criminal charge and reveal the dispute to be purely civil in nature. The Supreme Court has repeatedly cautioned that the criminal process ought not to be invoked to pressurize a party in matters of title or possession, or to give a criminal colour to what is essentially a civil dispute, thereby re-litigating issues cognate to a civil proceeding³.

11. In order to constitute an offence under Section 420 IPC, as explained in *A.M. Mohan v. State*⁴, the prosecution must establish the three indispensable elements: (i) deception of a person; (ii) fraudulent or dishonest inducement to deliver property; and (iii) dishonest intention at the very inception of the transaction. The said position was reiterated in *Delhi Race Club (1940) Ltd. v. State of U.P.*⁵, where the Court emphasised that mere failure to keep a promise or a subsequent breach of contract, absent dishonest intent at inception, does not constitute the offence of cheating. The Court observed:

“36. ...Similarly, in respect of an offence under Section 420 IPC, the essential ingredients are:

(1) deception of any person, either by making a false or misleading representation or by other action or by omission;

³ See *Paramjeet Batra v. State of Uttarakhand* (2013) 11 SCC 673; *G. Sagar Suri v. State of UP* (2000) 2 SCC 636; *Mohammed Ibrahim v. State of Bihar* (2009) 8 SCC 751.

⁴ 2024 SCC OnLine SC 339.

⁵ (2024) 10 SCC 690.



(2) *fraudulently or dishonestly inducing any person to deliver any property, or*

(3) *the consent that any persons shall retain any property and finally intentionally inducing that person to do or omit to do anything which he would not do or omit (see: Harmanpreet Singh Ahluwalia v. State of Punjab, (2009) 7 SCC 712 : (2009) Cr.L.J. 3462 (SC))*

37. **Further, in both the aforesaid sections, mens rea i.e. intention to defraud or the dishonest intention must be present, and in the case of cheating it must be there from the very beginning or inception.**

[Emphasis Supplied]

12. Applying these principles, even if the complaint narrative is taken at its face value, it emerges that the donor herself executed and registered a Gift Deed in favour of the Petitioner, later claiming that she believed it related to rectification of title records. The civil court's judgment, after full trial on pleadings, documents, and testimony, has upheld the Gift Deed as a genuine and voluntary instrument. In light of these findings, the essential element of "*dishonest intention at inception*" is missing. A registered conveyance executed by the very executant cannot, without more, be termed a "*false document*" or one procured by initial deception. Hence, the offence of cheating is not made out.

13. The findings in the civil suit also undermine any suggestion of "*criminal trespass*". The offence under Section 448 IPC (house-trespass) presupposes "*criminal trespass*" as defined under Section 441 IPC (entry into or upon property in possession of another with intent to commit an offence or to intimidate, insult, or annoy the person in possession). The Civil Court recorded that Ms. Padmawati continued to reside in the property with the Petitioner and her husband even after execution of the Gift Deed, and that the Petitioner was caring for them in their old age. Those findings negate the necessary ingredients of Section 448 IPC. Where possession is



shared or permissive, the offence of trespass cannot stand on bare assertions.

The findings to this effect are as follows:

37. *It is pertinent to mention here that even after getting the knowledge of the execution of Gift Deed Ex.PW1/X2 by misrepresentation, plaintiff has not got separated from her husband and defendant no.1 and started residing with her other sons including Sh. Parveen Kumar Garg (her SPA Holder) or Sh. Mukesh Garg or has not asked her husband and defendant no.1 to vacate the suit property. Rather it is pleaded in the plaint that she is residing in the suit property along-with defendant no.1 and her husband. During the cross-examination of PW-1 Sh. Parveen Kumar Garg recorded on 30/07/2024, he deposed that after filing of the present suit, her mother used to stay as per her own desire with her sons. However, no such pleading is there on record. PW-1 further deposed that he is unaware whether her mother also resided with defendant no.1 after filing of the present suit. The deposition of PW-1 does not inspire confidence of this Court because firstly the same is contrary to pleading; and secondly, it is strange that Sh. Parveen Kumar Garg, being SPA/son of plaintiff, was unaware of the fact that whether plaintiff had resided with defendant no.1. Though, perusing the complaint Ex.PW1/7, PW-1 ought to have deposed with conformity that plaintiff had not resided with defendant no.1 after filing of the suit or after 01.09.2011. It is worth-while to mention here that the averments mentioned in the complaint Ex.PW1/7 has not been pleaded by plaintiff. Plaintiff has also not taken leave of the Court before filing the complaint Ex.PW1/7. It is noteworthy to mention here that plaintiff or her LRs have not proved the contents of the complaint Ex.PW1/7 by leading positive and independent evidence. The allegations mentioned in the complaint Ex.PW1/7 have not been proved in accordance with law. It is pertinent to mention here that PW-1 further deposed that he used to visit regularly around the month of June, 2010 and thereafter, at the suit property to meet her mother. The testimony of PW-1 and averments of plaintiff clearly establish that plaintiff was staying with her husband and defendant no.1 in the suit property despite getting the knowledge of execution of gift deed Ex.PW1/X2. It is strange that even after getting the knowledge of misrepresentation and fraud, plaintiff continued residing with defendant no.1 and her husband and she has not separated with defendant no.1 and stayed with her other sons including Sh. Parveen Kumar Garg and Sh. Mukesh Garg.*

XX

XX

XX

39. *Defendant no.1 was residing with plaintiff and Sh. Suraj*



Bhan Garg during their old age and he was taking care of them. It is pertinent to mention here that there is no such pleading or no evidence came on record which can suggest that plaintiff or her husband was being ill-treated by defendant no.1. It is pertinent to mention here that there is no evidence on record to suggest that plaintiff was not having cordial relations with defendant no.1 and her husband after getting the knowledge of execution of gift deed Ex.PW1/X2. It is probable that as defendant no.1 was taking care of plaintiff and her husband during their old age, plaintiff was having more love and affection towards defendant no.1 then compare to her other children and out of the said love and affection, she has executed the gift deed Ex.PW1/X2 in favour of defendant no.1 in presence of her husband. The presence of Sh. Suraj Bhan Garg as witness to the gift deed Ex.PW1/X2 makes the process of execution and registration more genuine, valid, certified and reliable. The presence of Sh. Suraj Bhan as witness to the deed removes the clouds of ingenuity and falsity. His presence also removes the possibility of circumstance which can infer presence of misrepresentation and fraud. It is not the case of plaintiff that defendant no.1 has misrepresented plaintiff and her husband too. It is worth-while to mention here that PW-1 Sh. P.K. Garg, during his cross examination, has shown his ignorance to the fact that his father Sh. Suraj Bhan Garg witnessed the gift deed Ex.PW1/X-2. The cross examination of PW-1, reflects that Sh. P.K. Garg was giving evasive answers to the questions put by Ld. Counsel for defendant no.1 with regard to the presence of Sh. Suraj Bhan Garg as witness to the gift deed. It is pertinent to mention here that this Court has observed above that the notice Ex.P-1 had been sent by Sh. O.P. Aggarwal, Advocate to defendant no.1 as well as Sh. Suraj Bhan Garg, at the instructions of Sh. P.K. Garg. The testimony of PW-1 clearly shows that he was avoiding something material i.e. he was having the knowledge that his father has witnessed the gift deed Ex.PW1/X-2. The evasive answers given by PW-1 create probable doubts over the version pleaded.

14. In these circumstances, continuation of the criminal complaint is unwarranted and would serve no purpose except harassment and would cut across the settled line of rulings, that discourage converting civil disputes into criminal prosecutions.

15. The present petition is accordingly allowed. Criminal Complaint No. 741/2011 pending before the ACMM, Karkardooma Courts, Delhi, as well



as all consequential proceedings emanating therefrom, is quashed.

16. For clarity, nothing in this judgment touches upon the merits of any civil proceedings *inter se* the parties. Any pending or future civil claims, including appeals from the judgment dated 19th July, 2025, shall be decided independently on their own record and in accordance with law.

17. Liberty is reserved to the Respondents to pursue civil remedies as are available in law. Equally, the Petitioner shall be entitled to seek return of any property or documents seized solely for purposes of the quashed complaint, subject to orders of the competent court and any subsisting claims in the civil suit.

18. The Registry shall communicate a copy of this judgment to the ACMM, Karkardooma Courts, Delhi, and to the Investigating Officer for information and necessary compliance.

SANJEEV NARULA, J

OCTOBER 28, 2025/MK