IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

PRESENT:
THE HON'BLE JUSTICE UDAY KUMAR

CRR 1269 OF 2022

SUBRATA HALDER
-VS-
STATE OF WEST BENGAL AND ORS.

For the Petitioners : Mr. Sabyasachi Mukherjee, Ld. Adv.
Mr. Tapan Jyoti Bose, Ld. Adv.
Ms. Saheli Mukherjee, Ld. Adv.

For the State : Mr. Kallol Mondal, Ld. P.P.
Mr. Somnath Adhikary, Ld. Adv.
Ms. Samira Grewal, Ld. Adv.

Reserved on : 28.09.2026

Pronounced on : 06.10.2026

UDAY KUMAR, J.: –

1. The present criminal revisional application under Section 482 read with Sections 397 and 401 of the Code of Criminal Procedure, 1973, has been instituted by the petitioner, Subrata Halder, seeking the quashing of the First Information Report arising out of New Town Police Station Case No. 30 of 2022 dated February 03, 2022, under Sections 420/406/448/427/506/120B of the Indian Penal Code, 1860, along with the consequential charge-sheet and the entire criminal proceeding

pending before the Court of the Learned Chief Judicial Magistrate at Barasat, North 24 Parganas.

2. The background facts of the prosecution case, as revealed from the materials on record, present a distressing narrative concerning the de facto complainant, Sri Ajit Das @ Ojhir Das, a senior citizen aged about 77 years. The complainant originally owned a two-storied residential building standing on a plot of land measuring 2 cottahs of Sali land situated at Mouza Chandiberia, New Adarshapally, under New Town Police Station (formerly Rajarhat) in the District of North 24 Parganas. The genesis of the controversy traces back to a troubled domestic background wherein the elderly complainant suffered physical ouster from his said residential property at the hands of his son, Birender Das, and daughter-in-law, Rina Das. Though living separately, they forcibly entered his premises, subjected him to continuous physical and mental torture, and ultimately drove him out of his own home, compelling him to take shelter at his daughter's residence at Bagmari Road, Kolkata.

3. Seeking legal recourse and shelter to regain his rightful home and counter the harassment meted out by his son and daughter-in-law, the complainant sought professional assistance and consulted the present petitioner, Subrata Halder, an advocate by profession, along with co-accused Rahul Biswas. Pursuant to legal steps initiated before this Court in W.P.A. No. 10918 of 2021, culminating in solemn orders passed by this Court directing police assistance, the elderly complainant was successfully restored to the physical possession of his property on July 15, 2021. During these proceedings, it was suggested

to him by the petitioner that as an aged person, the complainant would face severe hardships running around courts and police stations, and consequently, a registered General Power of Attorney came to be executed on March 24, 2021, in favour of Rahul Biswas, described as an office assistant/clerk of the petitioner. However, the core controversy erupted within twenty-four hours on March 25, 2021, when the said Power of Attorney holder executed a registered sale deed transferring the property in favour of the petitioner, Subrata Halder.

4. The friction intensified further when the elderly complainant left for Jharkhand for a brief period to attend his granddaughter's wedding. Upon returning after a month, he discovered that his former advocate, Subrata Halder, had allegedly broken the locks of the house, demolished four rental rooms and a bathroom causing substantial structural loss, and taken over forcible possession. The state of affairs culminated in the complainant lodging a written complaint at New Town Police Station, giving rise to New Town P.S. Case No. 30 of 2022. During the investigation, the police recorded statements under Section 161 Cr.P.C., secured a judicial statement of the complainant under Section 164 Cr.P.C., seized original deeds, and noted financial transactions involving money transfers and receipts. Subsequently, the Investigating Officer submitted a charge-sheet under Section 173 Cr.P.C. on selfsame penal sections. Parallelly, a civil suit being Title Suit No. 237 of 2022 was instituted by the petitioner before the 1st Court of the learned Civil Judge (Junior Division), Barasat, Dsitrict- North 24 Parganas wherein the learned Civil Court, by Order No. 16 dated March 03, 2023,

evaluated the rival claims, noted that money had been accepted and withdrawn through banking and cash channels, and concluded that the defendants failed to establish a prima facie case of fraud at that stage, protecting the plaintiff's possession over the suit land through an order of injunction.

5. Turning to the submissions advanced on behalf of the petitioner-accused, the learned counsel vehemently argued that the entire criminal proceeding is an abuse of the process of law, being a malicious attempt to convert a purely civil and contractual property dispute into a criminal prosecution. It was submitted that the transaction in question is firmly rooted in registered statutory instruments; namely, a registered General Power of Attorney and a subsequent registered Sale Deed executed before the competent Additional District Sub-Registrar, which carry a statutory presumption of validity until set aside by a competent civil court.

6. The learned counsel for the petitioner further contended that one of the fundamental ingredients of cheating under Section 415 IPC punishable under Section 420 IPC, specifically dishonest inducement *ab initio*, are entirely absent, as the monetary considerations were duly advanced, documented through cheques and bank transfers, and further substantiated by contemporaneous money receipts and payment directions acknowledged by the complainant and his family members.

7. In support of his contentions, the learned counsel for the petitioner relied heavily upon the celebrated pronouncement of the Hon'ble Supreme Court in *Nageswar Prasad Singh v. Narayan Singh & Anr.,*

[(1998) 5 SCC 694], as well as the overarching principles laid down in *Indian Oil Corpn. v. NEPC India Ltd. & Ors.*, *[(2006) 6 SCC 736]*, wherein the Apex Court repeatedly cautioned against the growing tendency of utilizing criminal machinery as a pressure tactic or a shortcut to settle civil property disputes and contractual disagreements.

8. The petitioner further emphasized that the competent Civil Court in Title Suit No. 237 of 2022, after a meticulous evaluation of the bank accounts, money receipts, and third-party agreements, categorically held that the defendants could not establish any fraud at this stage and protected the plaintiff's peaceful possession over the suit property by an order of injunction, thereby rendering the continuance of a criminal trial completely redundant and untenable.

9. *Per contra*, the submissions on behalf of the opposite parties and the prosecution countered that the criminal proceeding cannot be throttled at the threshold, given the fiduciary relationship that existed between the parties. It was argued that the petitioner, who stood as an advocate and legal advisor to a vulnerable, septuagenarian senior citizen ousted from his home, abused that position of trust by orchestrating a lightning-fast transfer of property within twenty-four hours of obtaining a power of attorney, without any contemporaneous cash consideration. Pointing to the judicial statement under Section 164 Cr.P.C. and the investigative findings of the Investigating Officer, the prosecution urged that the subsequent token payments credited months later, grossly disproportionate to the actual market value of the property, coupled with the forcible breaking of locks and demolition of rental structures

during the elderly man's absence, disclose sterling *prima facie* materials constituting cognizable offenses of cheating, criminal breach of trust, criminal trespass, and mischief, which warrant a full-fledged trial rather than premature quashing.

10. Upon a comprehensive evaluation of the pleadings, the statutory materials collected during investigation, the subsequent charge-sheet, and the solemn judicial pronouncements rendered by the competent civil court, the core and cardinal questions that fall for determination in the present revisional application are formulated as under:

> ***Firstly,*** Whether a dispute arising out of registered instruments of property transfer, where financial transactions have been acted upon and the substantive issues of title, agency, and contractual validity are actively *sub judice* before a competent Civil Court, can form the lawful foundation of a criminal prosecution under Sections 420, 406, 448, 427, 506, and 120B of the Indian Penal Code?
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> ***Secondly,*** Whether the invocation and continuation of criminal machinery in such factual matrices constitute an abuse of the process of law warranting interference of this Court under Section 482 of the Code of Criminal Procedure?

11. To resolve these central questions conclusively, it is imperative to examine the legal parameters governing the co-existence of civil and criminal remedies and the binding *ratio decidendi* laid down by the

Hon'ble Supreme Court. It is a well-settled principle of criminal jurisprudence that civil and criminal remedies are not mutually exclusive, and a given set of facts may simultaneously give rise to civil and criminal liabilities. However, the Apex Court has repeatedly cautioned that criminal courts must exercise extreme vigilance to prevent the weaponization of criminal proceedings as a pressure tactic or an alternative shortcut to settle civil property disputes, contractual breaches, and title disagreements.

12. The Hon'ble Supreme Court, in the landmark ruling of *Indian Oil Corpn. v. NEPC India Ltd (supra)*, at paragraph 13 of the report, authoritatively held:

> *"13. .....A growing tendency has been noticed ..... to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time-consuming and do not adequately protect the interests of lenders/creditors... ... Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged....."*

13. The *ratio decidendi* of this judgment firmly establishes that where a dispute is fundamentally civil in nature, turning upon contractual rights, agency powers, and property transfers, and in view of absence of the essential foundational elements of criminal intent (*mens rea*) such as dishonest inducement from the very inception (*ab initio*) to fasten the offence of cheating, criminal prosecution cannot be allowed to proceed. Similarly, in *Narayan Singh (supra)*, the Supreme Court emphasized that civil property disputes concerning the execution and validity of

deeds must be adjudicated by a civil forum, and routing them through criminal courts is a clear abuse of process.

14. Applying the aforesaid authoritative ratio to the facts of the present case, the transaction in question rests upon statutory registered instruments, namely the registered General Power of Attorney and the registered Sale Deed. While the complainant alleges breach of trust and fraud, the contemporaneous documentary evidence, including bank statements, structured payment directions, and money receipts dated January 08 and January 13, 2022, proves that monetary considerations were indeed remitted and withdrawn through banking channels. More crucially, the learned Trial Court in Title Suit No. 237 of 2022, while adjudicating upon injunction applications, meticulously evaluated these financial trails, third-party agreements, and conduct of the parties, recording a categorical finding that Opposite Party No. 2 failed to establish a *prima facie* case of fraud at this stage and protected the petitioner's peaceful possession over the suit property by an order of injunction.

15. When a competent Civil Court exercising civil jurisdiction is already seized of the *lis* concerning title, the validity of deeds, and the civil consequences of a transaction, and has explicitly observed that monies were accepted and withdrawn and that fraud has not been established at the threshold, permitting a parallel criminal trial on identical allegations against an advocate and connected parties would lead to conflicting judicial outcomes and perpetrate a gross abuse of the judicial process. The dispute between the parties is quintessentially civil

and proprietary in character, turning upon the interpretation of power of agency, contractual performance, and property rights. In the absence of clear, unequivocal ingredients of cheating punishable under Section 420 of the IPC viz. dishonest inducement *ab initio*, the criminal prosecution loses its foundational legitimacy.

16. Consequently, upon a holistic evaluation of the materials on record, the findings of the Learned Civil Court in T.S. No. 237 of 2022, and the binding *ratio decidendi* of the Hon'ble Supreme Court in *Indian Oil Corpn. v. NEPC India Ltd (supra) and Narayan Singh (supra)*, this Court is of the considered view that the continuation of the impugned criminal proceeding is wholly unwarranted and constitutes an abuse of the process of the court.

17. Both questions are determined in favour of the petitioner. Accordingly, the revisional application succeeds.

18. C.R.R. 1269 of 2022 is allowed.

19. Consequently, the First Information Report arising out of New Town Police Station Case No. 30 of 2022 dated February 03, 2022, under Sections 420/406/448/427/506/120B of the Indian Penal Code, 1860, along with the consequential charge-sheet and the entire criminal proceeding connected thereto, pending before the Court of the Learned Chief Judicial Magistrate at Barasat, North 24 Parganas, are hereby quashed and set aside as against the petitioner, Subrata Halder.

20. All connected pending application(s), if any, stand disposed of.

21. Interim orders, if any, stand vacated.

22. There shall be no order as to costs.

23. Let a copy of this judgment along with the Trial Court Records (T.C.R.) be transmitted to the learned Trial Court forthwith for necessary compliance and information.

24. Case diary, be returned to the Learned Counsel for the State.

25. Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Uday Kumar, J.)