IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

PRESENT:

THE HON'BLE JUSTICE UDAY KUMAR

CRR 4691 OF 2024

SHARAD KUMAR SETH
-VS-
THE STATE OF WEST BENGAL & ANR.

For the Petitioner	*: Mr. Pratim Priya Dasgupta, Mr. Prabhat Kumar Srivastava, Mr. Tirthankar Kumar Dey, Ms. Ankita Singh*
For the State	*: Ms. Sreyashee Biswas, Ms. Singdha Saha*
Hearing concluded on	*: 24.02.2026*
Judgment on	*: 20.03.2026*

UDAY KUMAR, J.: –

1. This is an application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 482 of the Code of Criminal Procedure, 1973), seeking the quashing of the proceedings in connection with G.R. Case No. 2087 of 2011, arising out of Sankrail Police Station Case No. 225 of

2011, currently pending before the Learned Judicial Magistrate, 1st Court, Howrah. The Petitioner stands arraigned for the alleged commission of offences punishable under Sections 420, 471, and 120B of the Indian Penal Code, 1860.

2. The central theme of this adjudication involves a delicate intersection of criminal jurisprudence and equity in commercial transactions. The question posed for this Court’s determination is whether a criminal prosecution for forgery and cheating can be sustained against a corporate director who, having been allegedly misled into a defective land purchase by impersonators, subsequently cured the defect by paying full market consideration to the rightful owner. The Court must determine if the "restitution of a private property dispute" via a registered instrument renders the continuation of the criminal trial an exercise in futility and an abuse of the judicial process.

3. The genesis of the present litigation traces back to early 2008. The Petitioner, acting in his capacity as a Director of South Asia Rubber and Polymers Parks, was in search of land for a corporate project. He was introduced by local intermediaries to Sk. Ambia and Seikh Moktar, who held themselves out as the absolute title-holders of 57 decimals of Sali land in Mouza Jala Dhulagari. Relying upon the title deeds produced by the said individuals, the Petitioner executed a registered Deed of

Conveyance on May 9, 2008, paying a consideration of Rs. 6,20,727/- through banking channels.

4. The status quo was disrupted on March 19, 2011, when the Opposite Party No. 2, Mansura Begum, visited the site and asserted her title based on a 1983 registered sale deed. It then surfaced that the 2008 deed was purportedly a product of impersonation and forgery. Aggrieved by this revelation, the Opposite Party No. 2 moved a petition under Section 156(3) of the Cr.P.C., leading to the registration of the FIR on May 6, 2011.

5. A pivotal turn occurred during the investigation. The Petitioner, upon realizing the title was defective, opted for "restitution" rather than evasive litigation. On August 11, 2011, a second Registered Deed of Conveyance was executed, whereby the Petitioner paid a further, substantial sum of Rs. 22,61,155/- to Mansura Begum—nearly four times the original price—to regularize the title. Consequently, the Complainant filed an affidavit before the Learned Magistrate confirming that the dispute was amicably settled and she had no further grievances.

6. Notwithstanding this documented settlement and the Complainant's formal request to the police to withdraw the case, the investigating agency submitted a Charge Sheet (No. 408/12) on April 30, 2012. While the Investigating Officer (I.O.)

noted the "amicable settlement," the prayer for trial against the Petitioner was maintained, prompting this revisional challenge.

7. Mr. Pratim Priya Dasgupta, Learned Counsel for the Petitioner characterized the continued prosecution as "manifestly oppressive." The primary thrust of his argument is that the Petitioner is not a perpetrator of fraud, but a *bona fide* purchaser for value who fell victim to a sophisticated impersonation scam.

8. Mr. Dasgupta argued that the initial payment via an account payee cheque in 2008 is the antithesis of "dishonest intention." Furthermore, he submitted that the subsequent voluntary payment of a significantly higher sum in 2011 to the true owner serves as a conclusive rebuttal of any fraudulent intent. Relying on *Gian Singh v. State of Punjab (2012) 10 SCC 303*, it is argued that as the dispute is purely private and restitution is complete, the criminality has effectively evaporated. He further submitted that the Charge Sheet is "conspicuously silent" as to any evidence—forensic or otherwise—suggesting that the Petitioner manufactured the 2008 deed. In the absence of an expert report or proof of knowledge of the forgery, the charge under Section 471 cannot be sustained. So, he prayed for quashing of the instant proceedings as it amounts to abuse of process against the petitioner.

9. Curiously, Mr. Sreyashee Biswas, the learned Counsel for the State and the Opposite Party No. 2 find themselves in a unique position. The record contains an unequivocal stand by the Complainant herself, stating:

   > *"The dispute has been mutually settled... I have no further claim... I do hereby withdraw the said complaint."*

7. The State, however, maintains that because offences under Sections 467 and 471 are non-compoundable, the I.O. was procedurally bound to submit a Charge Sheet, regardless of the private settlement.

8. Having scanned the records and mulled over the rival contentions, this Court identifies the following quintessential questions for determination:

   I. Whether the subsequent act of "re-purchasing" the land from the rightful owner at a higher price serves as conclusive evidence to negate the *mens rea* ("dishonest intention") required under Section 420 IPC at the inception of the transaction?

   II. Whether a *bona fide* purchaser of property, who is himself a victim of impersonation by the sellers, can be held criminally liable for "using a forged document" (Section 471 IPC) in the absence of evidence showing his knowledge of the forgery?

III. Whether the "Settlement of a Private Land Dispute" through a registered deed, followed by an affidavit of the complainant, renders the continuation of a 13-year-old criminal proceeding an "abuse of process" warranting the exercise of inherent powers under Section 528 BNSS (Section 482 CrPC)?

IV. Whether the Investigating Agency, having noted the "amicable settlement" in the Charge Sheet, was justified in praying for trial against the purchaser, or whether such an act reflects a "mechanical application of mind" by the police?

9. I have scanned the records with clinical precision and, after mulling over the submissions, I find that this case presents a classic conflict between the rigors of criminal procedure and the equities of a *bona fide* commercial transaction. The core of this adjudication rests on whether the "criminality" survived after the "restitution."

10. The quintessential ingredient of "cheating" is a dishonest intention existing at the inception of the transaction. The Petitioner argues that his conduct—paying twice for the same land—negates such intent. A person intending to "grab" land would not leave a transparent banking trail. As highlighted by the Petitioner, the re-purchase on August 11, 2011, for a sum of Rs. 22,61,155/- is an act that unequivocally demonstrates *bona*

fide intention. If the Petitioner had intended to "cheat," he would not have voluntarily enriched the complainant to the tune of nearly four times the original price to rectify the title. Such subsequent conduct serves as a conclusive rebuttal of any fraudulent intent at the threshold of the transaction.

11. To sustain a charge of "using a forged document as genuine," the prosecution must establish that the accused had knowledge that the document was forged. The record is conspicuously silent on any material linking the Petitioner to the creation of the forged deed. The Petitioner was a *bona fide* purchaser for value who acted on registered documents. The Hon'ble Supreme Court, in *Anukul Singh v. State of Uttar Pradesh (2025) INSC 1153,* reiterated the standards for quashing, stating at Paragraph 11.5:

> *"It is the duty of the High Court to intervene where continuation of criminal proceedings would amount to an abuse of process of law... The court must ensure that criminal proceedings are not used as a weapon of harassment."*

12. In the present case, the harassment is evident. The Petitioner was a victim of an impersonation scam by the co-accused. To try the Petitioner for forgery, when he himself was financially bled by the fraud and subsequently indemnified the true owner, would be a perversion of the criminal justice system.

13. I find that the continuation of this 13-year-old proceeding has become a classic case of an "abuse of process." The Investigating Officer (I.O.) recorded in the Charge Sheet that the dispute had already been amicably settled, yet prayed for a trial. The I.O. acted mechanically by ignoring that the "wrongful loss" which triggered the FIR had been transformed into a "fair gain" via a registered instrument.

14. As held in the landmark case of *Gian Singh v. State of Punjab (2012) 10 SCC 303*, the High Court must exercise its power to quash when the dispute is predominantly civil or private and the parties have settled. The Hon'ble Court observed at Paragraph 61:

    "But the criminal cases having overwhelmingly and pre-dominatingly civil flavour stand on a different footing... the High Court may quash the criminal proceeding if in its view... the possibility of conviction is remote and bleak."

15. This is a quintessential civil dispute dressed in criminal attire. The Hon'ble Supreme Court in *Indian Oil Corpn. v. NEPC India Ltd. (2006) 6 SCC 736* and *G. Sagar Suri v. State of U.P.* warned against using criminal courts as a "weapon of coercion" to settle civil disputes. Once the title was regularized via the 2011 Deed, the foundation of the criminal case collapsed.

16. Based on the exhaustive factual analysis and the application of settled legal principles, this Court arrives at the following legal conclusions:

    I. The act of an accused paying full consideration to the rightful owner upon discovery of a defective title serves as a conclusive rebuttal of "dishonest intent" under Section 420 IPC.

    II. In the absence of evidence showing a prior "meeting of minds" to forge, a purchaser for value cannot be prosecuted for the fraud committed by his sellers.

    III. In private property disputes, once restitution is complete and acknowledged by the complainant through a registered deed, the "criminality" is extinguished for all practical purposes.

17. In light of the discussions above, I conclude that the continuation of the proceedings in G.R. Case No. 2087 of 2011 against the Petitioner would amount to be an abuse of the process of law, as the dispute being private and civil in nature, has been conclusively settled between the parties through registered instruments and full financial restitution.

18. For the reasons recorded hereinabove, the present Criminal Revision application is allowed. Accordingly:

i. The proceedings in connection with G.R. Case No. 2087 of 2011 arising out of Sankrail P.S. Case No. 225/2011 are hereby quashed and set aside, but only insofar as the Petitioner, Sharad Kumar Seth, is concerned.

ii. The Petitioner is hereby discharged from his bail bonds. Any security or documents deposited shall be returned to him forthwith.

iii. It is directed that the trial shall proceed against the remaining accused persons (the alleged impersonators and sellers) in accordance with the law, with utmost expedition. The quashing of proceedings against the *bona fide* purchaser does not absolve those who allegedly manufactured the forged instruments.

iv. The Learned Trial Court is directed to isolate the trial and proceed with vigor against the primary offenders.

v. All connected applications stand disposed of.

19. Let a copy of this judgment be sent to the learned Trial Court for immediate compliance.

20. The Trial Court Record (TCR), if any, shall be sent down to the Trial Court, at once.

21. Case diary, if any, be returned forthwith.

22. Urgent Photostat certified copy of this judgment, if applied for, be given to the parties, as expeditiously as possible, upon compliance with the necessary formalities in this regard.

23. Parties to act on a server copy of this order.

(Uday Kumar, J.)