

27.04.2026

Item no.23.

Court No.5.

Suman

**In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Criminal Revisional Jurisdiction**

CRR 41 of 2026

**In the matter of :Laxmi Kanta Saha and Anr.
.....Petitioners**

Dr. Arjun Chowdhury
Ms. Pratusha Dutta Chowdhury
Ms. Riya Agarwala
Mr. Mantu Mondal
Mr. Bappaditya Roy
..for the petitioners

Mr. Nilay Chakraborty, Ld. APP
Mr. Abhijit Sarkar
..for the State

The present revisional application has been preferred seeking quashing of the charge sheet vide no.110 of 2025 dated 28.02.2025 arising out of Matigara Police Station Case No.27 of 2025 dated 13.01.2025 under Sections 316(2)/318(4)/61(2)/3(5) of Bharatiya Nyaya Sanhita, 2023 qua the petitioners.

Dr. Chowdhury, learned advocate appearing for the petitioners, submits that the dispute which led to the initiation of the present proceedings is essentially civil in nature and has been given a criminal colour only to harass the petitioners. He further submits that the proceeding has been initiated under Sections 406/420 of the Indian Penal Code. According to him, it is well settled that where, in a complaint, allegations disclose an offence of criminal breach of trust as defined under Section 405 of the Indian Penal Code, punishable under Section 406 thereof, the same set of allegations cannot simultaneously constitute

an offence of cheating. In support of his submission, he relies upon the decision reported in (2024) 10 SCC 690 [Delhi Race Club (1940) Limited & Ors. vs. State of U.P. & Ors.].

Dr. Chowdhury further submits that, in the complaint, it has been alleged that the mother of accused nos. 1 and 2, since deceased, had during her lifetime entered into a development agreement with the complainant and received certain amounts of money. However, accused nos. 1 and 2 subsequently sold the said property to the petitioner. He contends that the present petitioner is a bona fide purchaser of the property, having no knowledge of any prior transaction between the deceased mother of accused nos. 1 and 2 and any developer. He further submits that, even assuming for the sake of argument that any monetary transaction had taken place between the deceased mother of accused nos. 1 and 2 and a developer, the present petitioner cannot be held responsible for any alleged offence. He informs that presently, the petitioners have constructed their residential building on that piece of land and started residing therein.

Mr. Sarkar, learned advocate appearing for the State, produces the case diary and opposes the contentions advanced on behalf of the petitioner. He submits that it is difficult to believe that accused nos. 1 and 2 were unaware of the fact that their mother, during her lifetime, had entered into a development agreement with the complainant. He contends that, by suppressing this material fact, accused nos. 1 and 2 sold the property to the present petitioners and, therefore, the petitioners cannot disown their criminal liability.

Heard the learned advocates appearing for the respective parties and perused the materials on record.

Admittedly, the power to quash a criminal proceeding is to be exercised sparingly, with circumspection, and in the rarest of rare cases. Needless to emphasise, such power is wide but not unlimited. In *State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335, the Hon'ble Supreme Court delineated seven categories of cases where quashing of a proceeding is justified. It is equally well settled that where a dispute is predominantly civil in nature and is given an unwarranted criminal colour with mala fide intent for unlawful gain, or where the proceeding is otherwise tainted with malice, it would not be just or proper to permit its continuation, as the same would amount to an abuse of the process of law and result in a miscarriage of justice.

In the present case, the complaint alleges that the mother of accused nos. 1 and 2, during her lifetime, had entered into a development agreement with the complainant and received certain amounts of money. It is further alleged that accused nos. 1 and 2, by suppressing the said fact, sold the property in favour of the petitioner. This Court has been informed that a civil suit has been instituted by the complainant and is pending adjudication before the competent court of law. Prima facie, therefore, the dispute between the complainant and accused nos. 1 and 2 appears to be civil in nature. However, it is well settled that the mere existence of a civil dispute does not, by itself, constitute a ground to quash criminal proceedings. In this regard, reference may be made to the decision reported in AIR 2014 SC 3352 (*Mosiruddin Munshi vs. Md. Siraj*).

However, if upon a reading of the complaint it appears to the Court that the dispute leading to the initiation of the proceedings is purely civil in nature and that the ingredients of any criminal offence are wholly absent,

and that a criminal colour has been unjustifiably given to such dispute with a view to harass or with mala fide intent, the proceedings may be quashed.

Undisputedly, in the present case, the deed of conveyance was executed on 18.04.2024, and the names of the present petitioners were duly mutated in the record of rights in respect of the said property. Nearly one year thereafter, the present proceeding has been initiated against the petitioners along with accused nos. 1 and 2. Furthermore, no cogent material has been placed on record to demonstrate that the petitioners had knowledge of the prior transaction between the mother of accused nos. 1 and 2 and the de facto complainant. Therefore, if accused nos. 1 and 2, by suppressing such fact, sold the property to the petitioners, the petitioners cannot be subjected to prosecution under Sections 406 and 420 of the Indian Penal Code. Accordingly, I am of the view that the contention advanced on behalf of the petitioners deserves to be accepted.

Accordingly, the application is, thus, **allowed**.

The criminal proceedings originated from the charge sheet vide no.110 of 2025 dated 28.02.2025 arising out of Matigara Police Station Case No.27 of 2025 dated 13.01.2025 under Sections 316(2)/318(4)/61(2)/3(5) of Bharatiya Nyaya Sanhita, 2023 and chargesheet qua the petitioners stands quashed.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Partha Sarathi Chatterjee, J.)