IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2026:PHHC:074709

CRM-M-2637-2017 (O&M)

Som Nath and others **...Petitioners**

Versus

State of Punjab and others **...Respondents**

Sr. No.	Particulars	Details
1	The date when the judgment is reserved	12.05.2026
2	The date when the judgment is pronounced	14.05.2026
3	The date when the judgment is uploaded on the website	14.05.2026
4	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. B. R. Rana, Advocate
for the petitioners.

Ms. Ruchika Sabherwal, Senior DAG, Punjab.

Ms. Dheerja, Amicus Curiae for respondent No. 2.

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MANISHA BATRA, J.

1. Prayer in this petition, filed under Section 482 of the Code of Criminal Procedure *(for short 'Cr.P.C.')*, is for quashing of FIR No. 256 dated 22.11.2014, registered under Sections 420 and 120-B of IPC at Police Station Division No. 5, Ludhiana as well as for quashing of chargesheet dated 08.12.2015 along with all the subsequent proceedings having arisen

therefrom.

2. At the very outset, it is worth mentioning that since petitioners No. 1 and 2 were reported to have died, the present petition was dismissed as not pressed qua them, vide order dated 12.05.2026.

3. Brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a written complaint submitted by respondent No.2/complainant Raj Kumar alleging therein that petitioner No. 1 Som Nath (since deceased) entered into an agreement to sell dated 04.07.2013 in respect of property bearing No. B-18-3094/1 measuring 52 square yards situated at Labour Colony, Ludhiana for a total sale consideration of Rs.16,00,000/-. At the time of execution of the agreement, the complainant paid Rs.1,00,000/- as earnest money and the sale deed was agreed to be executed on 04.11.2013. Thereafter, petitioner Som Nath along petitioner No. 2 Sansar Chand (since deceased) and petitioner No. 3 Sunny received further amounts of Rs.1,00,000/- on 29.07.2013, Rs.2,00,000/- on 20.08.2013, Rs.3,00,000/- on 12.09.2013, Rs.2,00,000/- on 29.10.2013 and Rs.1,75,000/- on 09.11.2013 from the complainant on the assurance that the sale deed would be executed, whereafter the date for execution of sale deed was extended to 26.11.2013. It was further alleged that on 26.11.2013, when the complainant approached petitioner Som Nath for execution of the sale deed, he avoided the same on the pretext of death of a relative and assured that the sale deed would be executed on the next day i.e. 27.11.2013. However, despite waiting at the office of the Sub Registrar along with the balance sale consideration, petitioner Som Nath failed to appear, compelling

the complainant to get his affidavit of presence attested. Thereafter, when the complainant again approached the accused persons regarding execution of the sale deed, all the accused refused to execute the same, abused the complainant and also extended threats to kill him. On the basis of the aforesaid allegations, the complainant alleged that the petitioners, in connivance with each other, dishonestly induced him to part with huge amounts of money on the false promise of selling the property and thereby cheated him. It was further alleged that the accused persons threatened him with dire consequences and, accordingly, action was sought against them for offences of cheating, criminal intimidation and conspiracy. After registration of the FIR, investigation proceedings were initiated. The petitioners were granted concession of bail. After completion of necessary investigation and usual formalities, challan was presented in the Court. The petitioners approached this Court by way of filing the present petition seeking quashing of the impugned FIR. Vide order dated 27.01.2017, while issuing notice of motion, the proceedings before the learned trial Court were ordered to be stayed, which is still continuing.

4. It is argued by learned counsel for the petitioners that during the pendency of the present petition, petitioners No. 1 and 2 namely Som Nath and Sansar Chand have since died and, therefore, the present petition survives only qua petitioner No. 3. It is further argued that the impugned FIR has been registered only to give a criminal colour to a purely civil dispute arising out of an agreement to sell dated 04.07.2013 executed between petitioner No. 1 and respondent No. 2 with respect to aforementioned property. As per the agreement to sell, the sale consideration was fixed at Rs.16,00,000/- and the

date for execution of the sale deed was initially fixed as 04.11.2013, which was subsequently extended by mutual consent to 26.11.2013. The petitioners were always ready and willing to perform their part of the contract and petitioner No. 1 had even marked his presence before the office of Sub Registrar, Ludhiana on 26.11.2013 by way of an affidavit, whereas respondent No. 2 failed to appear on the stipulated date along with the balance sale consideration.

5. It is further argued by learned counsel for the petitioners that respondent No. 2 later got his presence marked on 27.11.2013 i.e. one day after the agreed date for execution of the sale deed, only to create a defence in his favour. Immediately thereafter, petitioner No. 1 instituted a civil suit dated 28.11.2013 seeking declaration to the effect that the agreement to sell stood cancelled and the earnest money stood forfeited on account of default committed by respondent No. 2. Learned counsel has further argued that respondent No. 2 also filed a suit for specific performance on 03.01.2014, which has been decreed in his favour vide judgment and decree dated 27.01.2020 passed by the learned Civil Judge (Jr. Divn.), Ludhiana whereby deceased petitioner No. 1 Som Nath has been directed to refund the earnest money amounting to Rs.11,75,000/- to respondent No. 2. It is contended that once the competent Civil Court has already adjudicated the rights and liabilities of the parties arising out of the agreement to sell, the dispute assumes a civil character and continuation of criminal proceedings, particularly against petitioner No. 3 who was merely an attesting witness, would amount to abuse of the process of law.

6. It is also argued that the essential ingredients of offences punishable under Sections 420 and 120-B IPC are not made out at all in the present case as there was neither any dishonest inducement nor any fraudulent intention on the part of the petitioners from the inception of the transaction. Mere non-execution of the sale deed owing to an *inter se* dispute between the parties regarding performance of the contract would not constitute the offence of cheating. Even otherwise, petitioner No. 3 was merely an attesting witness to the agreement to sell and was neither the owner of the property nor a beneficiary under the agreement. It is argued that no specific role has been attributed to petitioner No. 3 except his presence at the time of execution of the agreement and receipt of money by petitioner No. 1. Therefore, continuation of criminal proceedings against petitioner No. 3 is wholly unjustified and amounts to abuse of the process of law. Accordingly, it is urged that the petition deserves to be allowed and the impugned FIR and all consequential proceedings arising therefrom are liable to be quashed.

7. *Per contra*, learned State counsel, assisted by learned counsel for respondents No. 2, has argued that a *prima facie* case under Sections 420 and 120-B IPC was clearly made out against the petitioners from the allegations levelled in the FIR as well as the material collected during investigation. It is further argued that respondent No. 2 was induced to part with an amount of Rs.11,75,000/- on the assurance that the sale deed would be executed, however, despite repeated assurances, the petitioners failed to honour their commitment and ultimately refused to execute the sale deed. It is further submitted that the challan has already been presented and charges have been

framed by the learned trial Court after due application of mind and, therefore, this Court ought not to exercise its inherent jurisdiction under Section 482 Cr.P.C. to stifle a legitimate prosecution at the threshold. The petitioners acted in connivance with each other and dishonestly induced respondent No. 2 to part with substantial amounts of money while continuously assuring execution of the sale deed. It is argued that the question regarding the exact role and participation of petitioner No. 3 is a matter of evidence to be examined during trial and cannot be adjudicated in proceedings under Section 482 Cr.P.C. The veracity of the allegations as levelled against the petitioners can be tested in the trial and no ground for quashing the FIR has been made out. Merely because civil proceedings were initiated between the parties and the suit filed by respondent No. 2/complainant has been decreed vide judgment and decree dated 27.01.2020 passed by the Court of learned Civil Judge (Jr. Divn.), Ludhiana directing deceased petitioner No. 1 Som Nath to refund the earnest money amounting to Rs.11,75,000/- to respondent No. 2, the same would not ipso facto wipe out criminal liability arising from the acts of the petitioners. It is contended that civil and criminal proceedings can proceed simultaneously and the decree passed by the Civil Court does not absolve the petitioners from criminal prosecution where allegations disclosing dishonest intention and inducement are specifically levelled in the FIR. Therefore, it is urged that the petition is liable to be dismissed.

8. This Court has heard the rival submissions.

9. At the outset, it will be profitable to look into the scope and ambit of the Court’s power under Section 482 Cr.P.C. *(which is pari materia with*

Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023) as spelt out in several judicial pronouncements of Hon'ble Supreme Court as well as different High Courts. The well settled proposition of law is that in exercise of inherent powers under Section 482 Cr.P.C., the High Court is not expected to analyze all the facts, which are to be placed before the High Court. The power conferred under this section is very specific. To secure the ends of justice, to prevent the abuse of process of Court or to make any such orders as may be necessary to give effect to any order under the Code, such power can be exercised to prevent abuse of process of Court. The Hon'ble Supreme Court has drawn up some guidelines in some categories of cases by way of illustration to circumscribe the exercise of inherent power under Section 482 of Cr.P.C. to prevent abuse of process of any Court or to securethe ends of the justice or to give effect to an order of the Court. A celebrated pronouncement on this point is the case cited as ***State of Haryana Vs. Bhajan Lal : 1992 SUPP (1) SCC 335***, wherein Hon'ble Supreme Court has discussed different categories of cases wherein the power under Section 482 Cr.P.C. could be exercised either to prevent abuse of process of law or otherwise to secure the ends of justice, while observing that it might not be possible to lay down any precise, clearly defined, sufficiently channelized, inflexible guidelines or rigid formulae and to give an exhaustive list or myriad kind of cases where such powers should be exercised. The following principles have been culled out:-

> "102 (1) Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(2) Where the allegations in the First Information Report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155 (2) of the Code;

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

10. The principles of law as laid down by Hon'ble Supreme Court in ***Bhajan Lal'***s case (supra) have been followed in a catena of judgments. In ***Paramjeet Batra vs. State of Uttarakhand, (2013) 11 SCC 673***, it was observed by Hon'ble Supreme Court that although the inherent powers of a High Court under Section 482 of the Code should be exercised sparingly and only for the purpose of preventing abuse of process of any Court or otherwise to secure ends of justice, yet, the High Court must not hesitate in quashing such criminal proceedings, where essential ingredients of the offence are not made out. In ***Randheer Singh vs. State of Uttar Pradesh, (2021) 14 SCC 626***, it was observed by Hon'ble Supreme Court that criminal proceedings cannot be taken recourse to as a weapon of harassment.

11. Reference can further be made to ***Gian Singh vs. State of Punjab, (2012) 10 SCC 303***, wherein Hon'ble Supreme Court observed that the power of the High Court in quashing a criminal complaint or an FIR, in exercise of its inherent jurisdiction, is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plentitude with no statutory limitation but it has to be exercised in accordance with the guidelines engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. Reference can further be made to ***Narinder Singh and Ors. Vs. State of Punjab : (2014) 6 SCC 466,*** wherein it was by Hon'ble Supreme Court that while exercising power under Section 482 of Cr.P.C., the High Court has to examine as to whether the possibility of conviction is remote and bleak and

continuation of criminal case would put him into great oppression and prejudice and injustice would be caused to him by not quashing criminal case.

12. In ***Dhruvaram Murlidhar Sonar vs. State of Maharashtra : 2019 (18) SCC 191,*** Hon'ble Supreme Court, while reiterating the parameters as laid down in ***Bhajan Lal***'s case (supra), had observed that for quashing of the proceedings, meticulous analysis of factum of taking cognizance of an offence by the Magistrate was not called for. Appreciation of evidence was also not permissible in exercise of inherent powers. If the allegations set out in the complaint did not constitute the offence of which cognizance has been taken, it is open to the High Court to quash the same in exercise of its inherent powers.

13. In ***Neeharika Infrastructure vs. State of Maharashtra : 2021 SCC OnLine SC 315***, the Apex Court observed that the Courts ought to be cautious in exercising powers under Section 482 of Cr.P.C. They do have power to quash. The test is whether or not the allegations in the FIR disclose the commission of a cognizable offence? The merits of the allegations are not to be entered into nor the power of the investigating agency to investigate into allegations involving the commission of a cognizable offence is to be trenched upon.

14. Now coming to the present case. The petitioners had been booked for commission of offence punishable under Section 420 read with Section 120-B of IPC on the allegations that they, in connivance with each other, had cheated the complainant of huge amount of money on the pretext of selling some property to him. The offence of cheating is defined under Section 415

of IPC and cheating a person, thereby dishonestly inducing him to deliver any property falls within the ambit of Section 420 of IPC. The ingredients required to constitute Offence of cheating under Section 415 of IPC are as follows:

> **(i) There should be fraudulent or dishonest inducement of a person by deceiving him;**
> **(ii) (a) The person so deceived should be induced to deliver any property to any person, or to consent that any person shall retain any property; or**
> **(b) The persons so deceived should be intentionally induced to do or omit to do anything which he would not do or omit if he were not so deceived; and**
> **(iii) In cases covered by (ii)(b) the act or omission should be one which causes or is likely to cause damage or harm to the person induced in body, mind, reputation or property.**

15. Further, the ingredients for commission of offence punishable under Section 420 of IPC are as follows:

> **(i) Cheating;**
> **(ii) Dishonest inducement to deliver property or to make, alter or destroy any valuable security or anything which is sealed or signed or is capable of being converted into valuable security, and**
> **(iii) Mens rea of the accused at the time of making the inducement.**

16. It is clear from the above that to constitute the offence of cheating, there must be fraudulent or dishonest inducement of a person with intention to deceive him and such person must have been deceived to deliver any property or to give consent to retain such property or to omit to do anything or to make alter or destroy the whole or any part of valuable security.

Simultaneously, *mens rea* of the accused at the time of making such inducement must also to be established.

17. On applying the ratio of law as discussed above and after hearing learned counsel for the parties and going through the material available on record, this Court is of the considered opinion that continuation of criminal proceedings against surviving petitioner No. 3 would amount to abuse of the process of law. Admittedly, the agreement to sell dated 04.07.2013 was executed between deceased petitioner No. 1 Som Nath and respondent No. 2 in respect of the property in question. Petitioner No. 3 was neither owner of the property nor executant of the agreement to sell. The entire dispute essentially revolves around alleged non-execution of the sale deed pursuant to the agreement to sell and the question as to which party failed to perform its contractual obligations. It is also not disputed that civil proceedings with regard to the same agreement to sell were initiated by both the sides. Significantly, the suit filed by respondent No. 2/complainant has already been decreed in his favour and deceased petitioner No. 1 Som Nath had been directed to refund the earnest money amounting to Rs.11,75,000/- to respondent No. 2/complainant vide judgment and decree dated 27.01.2020 passed by the Court of learned Civil Judge (Jr. Divn.), Ludhiana. The aforesaid adjudication by the competent Civil Court further demonstrates that the controversy between the parties substantially arose out of contractual obligations flowing from the agreement to sell.

18. A careful perusal of the FIR and the material collected during investigation would show that no specific overt act has been attributed to

petitioner No. 3 except a bald allegation that he remained present at the time of receipt of money and later refused execution of the sale deed along with other accused persons. There is no allegation that petitioner No. 3 received any part of the sale consideration, represented himself to be owner of the property or derived any benefit from the transaction. The necessary ingredients constituting the offences punishable under Sections 420 and 120-B IPC, particularly dishonest inducement and mens rea at the inception of the transaction, are conspicuously absent qua petitioner No. 3.

19. At this stage, it would be apposite to refer to the judgment of Hon'ble Supreme Court in ***M.L. Abdul Jabbar Sahib vs. M.V. Venkata Sastri and Sons and others, (1969) 1 SCC 573***, wherein while interpreting the expression "attested" under Section 3 of the Transfer of Property Act, it was held that an attesting witness merely bears witness to the factum of execution of the document and signs the same for the purpose of attestation. The Hon'ble Supreme Court explained that an attesting witness only certifies that he has seen the executant sign the document or has received acknowledgment regarding such signature. Reference can further be made to the judgment of Hon'ble Supreme Court in ***Mohammed Ibrahim and others vs. State of Bihar and another, (2009) 8 SCC 751***, wherein it was held that merely because a person is a witness to a sale deed, no criminal liability can automatically be fastened upon him in the absence of allegations showing active deception or fraudulent inducement. It was specifically observed that where the ingredients of cheating are not satisfied, offences under Sections 417, 418, 419 or 420 IPC are not made out against witnesses to the transaction. Similarly, in ***Rajesh***

Jain vs. Union Territory of Jammu & Kashmir and others, CRM(M) No. 802 of 2023 decided on 21.10.2024 by the High Court of Jammu & Kashmir and Ladakh, the FIR against an attesting witness was quashed while holding that in the absence of any allegation of cheating, forgery or dishonest intention attributable to the witness, implicating such witness in criminal proceedings would amount to abuse of the process of law. The Court categorically observed that an attesting witness, who is neither beneficiary nor party to the agreement, cannot be hauled into criminal prosecution merely because he witnessed execution of the document.

20. Likewise, the Karnataka High Court in ***Rajesh S/o Yallappa Totaganti vs. State of Karnataka and another, Criminal Petition No.100659 of 2023 decided on 14.09.2023*** held that where the accused was merely an attesting witness to the sale deed and there were no allegations touching upon the ingredients of the alleged offences, continuation of criminal proceedings would not be sustainable. It was observed that an attesting witness cannot be dragged into the web of criminal prosecution merely on account of his signature as a witness in the document in question. A similar view has been reiterated by the Karnataka High Court in ***Charan S/o Datta Naik vs. State of Karnataka and another, Criminal Petition No.100499 of 2024 decided on 21.01.2025***, wherein proceedings against an advocate, who was merely an attesting witness, were quashed while observing that in the absence of any material showing participation in the alleged fraud or conspiracy, criminal prosecution cannot continue merely on the basis of attestation of the document.

21. The principles laid down in the aforesaid judgments fully apply

to the facts of the present case. Even if the allegations levelled in the FIR are accepted in their entirety, no prima facie case disclosing commission of offences punishable under Sections 420 and 120-B IPC is made out against petitioner No. 3. The allegations against him are vague, omnibus and entirely insufficient to continue criminal prosecution. The decree passed by the competent Civil Court directing refund of earnest money further fortifies the civil nature of the dispute and substantially dilutes the criminal colour sought to be given to the transaction, particularly qua petitioner No. 3, who was merely an attesting witness to the agreement in question.

22. Keeping in view the discussions made above, this Court is of the considered opinion that the petition deserves to be allowed. Accordingly, the same is allowed and FIR No. 256 dated 22.11.2014 registered under Sections 420 and 120-B IPC at Police Station Division No. 5, Ludhiana, along with charge sheet dated 08.12.2015 and all subsequent proceedings arising therefrom, are hereby quashed qua petitioner No. 3.

(MANISHA BATRA)
JUDGE

14.05.2026
Parveen Sharma

Whether speaking/ reasoned	:	*Yes / No*
Whether reportable	:	*Yes / No*