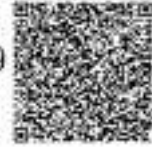


**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

2026:PHHC:077129



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CRM-M-32179-2021 (O&M)

Date of decision : 18.05.2026

Ram Lal and another**...Petitioners****Versus****State of Punjab and another****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. S. S. Salar, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Senior DAG, Punjab.

None for respondent No. 2.

MANISHA BATRA, J. (Oral)

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. 0068 dated 16.07.2018, registered under Section 420 of IPC at Police Station Kotwali Nabha, District Patiala along with all the subsequent proceedings having arisen therefrom.

2. 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 Ravinder Singh alleging that accused Rajiv Kumar (husband of petitioner No. 2) entered into an agreement to sell land measuring 3 Kanals 17 Marlas situated at Preet Vihar Bagichi,

Nabha for a total sale consideration of Rs.1,50,00,000/-. Pursuant to the agreement dated 12.08.2015, the complainant paid different amounts to accused Rajiv Kumar, including Rs.1,00,000/- as earnest money, Rs.9,00,000/- on 05.09.2015, Rs.15,00,000/- on 31.12.2015 and Rs.1,00,00,000/- in cash on 28.06.2016. The date for execution and registration of the sale deed was fixed as 17.05.2017. The complainant alleged that despite his presence in the office of Sub Registrar, Nabha, along with the balance sale consideration and expenses, accused Rajiv Kumar failed to appear for execution of the sale deed, regarding which the complainant got his affidavit of presence attested. It was further alleged that accused Rajiv Kumar, in connivance with petitioners dishonestly executed a transfer deed in favour of Reena Rani (petitioner No. 2) with an intention to cheat the complainant and misappropriate the amount received from him. The complainant further alleged that upon being questioned, the accused threatened him with dire consequences. 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. Accused Rajiv Kumar had died on 20.02.2019. The petitioners, Ram Lal and Reena Rani, have approached this Court by way of filing the present petition seeking quashing of the impugned FIR.

3. It is argued by learned counsel for the petitioners that they have been falsely implicated in this case, which was registered at the instance of complainant Ravinder Kumar, who is a property dealer having considerable influence in the police department. The dispute arises purely out of an

agreement to sell dated 12.08.2015 executed between the complainant and deceased Rajiv Kumar regarding land measuring 3 Kanals 17 Marlas for a total sale consideration of Rs.1,50,00,000/-. As per the terms of the agreement, the sale deed was to be executed on 30.06.2016 and the complainant was required to make payments in instalments. Although the complainant alleged payment of amounts of money totalling Rs.1,25,00,000/- in cash, there is neither any receipt nor any documentary proof regarding such payments, nor has any source of such huge cash amount been disclosed during inquiry.

4. It is further argued that the complainant failed to perform his part of the agreement by not appearing for execution of the sale deed on the stipulated date i.e. 30.06.2016, whereas deceased Rajiv Kumar had himself appeared before the Tehsildar and got an affidavit regarding his presence attested. Learned counsel submitted that there is no document on record to show that the date for execution of the sale deed was ever extended to 17.05.2017 as alleged by the complainant. Since the vendee (complainant) failed to perform his obligations under the agreement, the earnest money stood forfeited in terms of the agreement itself and the complainant, instead of availing civil remedies, misused the criminal process to pressurize the accused persons for return of the alleged amount. Moreso, the petitioners were not parties to the agreement to sell and no allegation of receipt of any money has been attributed to them. Petitioner No.1 was merely a witness to the transfer deed, which was executed in favour of petitioner No. 2 and the latter was the transferee of the property being wife of deceased Rajiv Kumar. It is argued that even if the allegations are taken at their face value, no offence of cheating

is made out against the petitioners as the essential ingredient of dishonest intention from the inception of the transaction is completely absent. The agreement to sell was executed in the year 2015 whereas the transfer deed in favour of petitioner No.2 was executed subsequently in the year 2017. Moreover, the transfer being in favour of the wife without consideration did not extinguish the complainant's alleged right to seek specific performance of the agreement through a civil court, which he has not done.

5. Learned counsel for the petitioner has further argued that the entire dispute is of civil nature arising out of alleged breach of agreement to sell and does not attract criminal liability under Section 420 of IPC. Mere non-execution of the sale deed cannot constitute the offence of cheating unless fraudulent or dishonest intention existed at the inception of the transaction. The complainant never filed any civil suit for specific performance or recovery of money, which itself shows falsity of the allegations. The complainant sought to take undue advantage of the deteriorating medical condition of deceased Rajiv Kumar, who had been suffering from serious ailments including dementia, diabetes, hypertension and neurological disorders and ultimately died on 20.02.2019 while under immense pressure due to the criminal proceedings. The allegations regarding payment of Rs.1,25,00,000/- in cash are inherently doubtful and contrary to the terms of the agreement itself, which contemplated written acknowledgment for receipt of money. It is, thus, argued that continuation of the criminal proceedings against the petitioners amounts to abuse of the process of law and the

impugned FIR along with all consequential proceedings deserves to be quashed.

6. There is no representation on behalf of respondent No.2/complainant despite service. Even no reply has been filed on his behalf.

7. Learned State counsel has argued that a *prima facie* case under Section 420 of 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/complainant was induced to part with an amount of Rs.1,25,00,000/- on the premise of selling him aforementioned property but the same was not done and the property in dispute was transferred to petitioner No.2, who is wife of deceased Rajiv Kumar. Accused Rajiv Kumar had issued a receipt dated 28.06.2018 (Annexure R-2) with regard to receiving an amount of Rs.1,25,00,000/- from the complainant as earnest money. It is further submitted that the challan has already been presented and trial is going on. Therefore, this Court ought not to exercise its inherent jurisdiction 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. 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. 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 law 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 secure the 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 plenitude 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 trenchd upon.

14. Now coming to the present case. The petitioners had been booked for commission of offences 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. 1 would amount to abuse of the process of law. A careful perusal of the record would show that the agreement to sell in question was admittedly executed between the complainant and deceased Rajiv Kumar alone. Petitioner No.1 was neither a party to the said agreement nor any allegation has been levelled against him regarding receipt of any amount from the complainant. Even as per the allegations contained in the FIR, the entire transaction pertaining to payment of money and execution of agreement was exclusively between the complainant and deceased Rajiv Kumar. So far as petitioner No.1 is concerned, the only allegation sought to be attributed to him is that he had witnessed the transfer deed executed by deceased Rajiv Kumar in favour of petitioner No.2. Merely being an attesting witness to a transfer deed, by itself, would not be sufficient to attract criminal liability for the offence of cheating or criminal conspiracy in absence of any material showing active participation, dishonest inducement or meeting of minds with the principal accused. There is no material on record to suggest that petitioner No.1 had induced the complainant to part with any money or had made any representation whatsoever to him at the inception of the

transaction. The essential ingredients constituting the offence punishable under Section 420 IPC, particularly dishonest intention at the inception of the transaction, are conspicuously absent qua petitioner No.1. The allegations levelled in the FIR, even if taken on their face value, do not disclose commission of any cognizable offence by petitioner No.1. The dispute, at best, arises out of alleged non-performance of an agreement to sell executed by deceased Rajiv Kumar and the complainant and no overt act attributable to petitioner No.1 has been brought on record except his presence as a witness to the subsequent transfer deed. It is well settled that criminal proceedings cannot be permitted to continue merely on the basis of vague and omnibus allegations without there being any specific role attributed to an accused. Continuation of criminal proceedings against petitioner No.1, in the absence of any material showing fraudulent or dishonest inducement on his part, would amount to abuse of the process of law.

18. 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.

19. 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.

20. 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 Section 420 is made out against petitioner No. 1. The allegations against him are vague, omnibus and entirely insufficient to continue criminal prosecution. The case of petitioner No.1, thus, squarely falls within the categories carved out by Hon'ble Supreme Court in State of Haryana vs. Bhajan Lal (supra), particularly where the allegations made in the FIR, even if accepted in entirety, do not prima facie constitute any offence against him. However, insofar as petitioner No.2 is concerned, specific allegations have been levelled regarding transfer of the property in her favour during subsistence of the agreement to sell. The questions regarding her knowledge, involvement and alleged connivance with deceased Rajiv Kumar are matters requiring appreciation of evidence, which cannot be adjudicated upon by this Court while exercising jurisdiction at this stage.

21. In view of the discussion made hereinabove, the present petition is ***partly*** allowed and FIR No. 0068 dated 16.07.2018, registered under Section 420 IPC at Police Station Kotwali Nabha, District Patiala and all consequential proceedings arising therefrom are hereby quashed qua

petitioner No.1 only. However, the proceedings shall continue in accordance with law against petitioner No.2.

(MANISHA BATRA)
JUDGE

18.05.2026
Waseem R. Ansari

<i>Whether speaking/ reasoned</i>	:	<i>Yes / No</i>
<i>Whether reportable</i>	:	<i>Yes / No</i>