



IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 932 OF 2021
(Arising out of SLP (Cr1.) No. 1190 of 2021)

RANDHEER SINGH

Appellant(s)

VERSUS

THE STATE OF U.P. & ORS.

Respondent(s)

WITH

CRIMINAL APPEAL NO. 933 OF 2021
(Arising out of SLP (Cr1.) No. 4237 of 2021)

J U D G M E N T

Indira Banerjee, J.

Leave granted.

2. This appeal is against a judgment and order dated 15th December, 2020 passed by the High Court of Judicature at Allahabad dismissing the application of the Appellant under Section 482 of the Code of Criminal Procedure (hereinafter referred to as the 'Cr.P.C.').

3. As recorded in the judgment and order impugned, the application under Section 482 of the Cr.P.C. had been filed for quashing of proceedings in Crime Case No.5973/2020 (State v. Rajan Kumar) under Sections 420, 467, 468 and 471 of the Indian Penal Code (hereinafter referred to as the 'I.P.C.'), Police Station Shahpur, District Gorakhpur pending in the Court of the Additional

Chief Judicial Magistrate, IIIrd District Gorakhpur and also to quash the charge sheet dated 18th January, 2020 and summoning order dated 26th June, 2020. The High Court has, in detail, recorded the arguments of the applicants which are very briefly summarised hereinbelow :-

- (i) The case lodged was false and baseless;
- (ii) Charge-Sheet had been submitted without proper investigation and evidence;
- (iii) No *prima facie* case was disclosed against the applicants.

4. It is the case of the Appellant that one Arjun Dev and his wife Bela Rani were recorded as Bhumidhar of Plot No. 971M area 918 Aire (hereinafter referred to as the 'plot in question') and that they had executed a registered Power of Attorney in favour of the Applicant No.1 Rajan Kumar, who has since died.

5. It is said that on the basis of the said Power of Attorney, the said Rajan Kumar (since deceased) executed sale deeds in favour of the Appellant and his family members on 16th July, 2014, 1st August, 2014, 6th August, 2014 and 23rd July, 2014, pursuant to which, the name of the Appellant and others were mutated in the Revenue records.

6. From the facts, as recorded in the judgment and order under appeal, it appears that during the mutation proceedings, one Smt. Beena Srivastava had filed objections before the Naib Tehsildar but the same were rejected and the property was duly mutated in

favour of the Appellant and his family members by an order dated 28th February, 2015.

7. Smt. Beena Srivastava filed an Original Suit No. 971 of 2014 for cancellation of the Power of Attorney dated 4th June, 2014 and the sale deeds executed by Rajan Kumar (since deceased) in favour of the Appellant and his family members but that suit was dismissed under Order VII Rule 11 of the Code of Civil Procedure, by order dated 18th September, 2015.

8. The order dated 18th September, 2015 was challenged in First Appeal No.531 of 2015 before the High Court. That appeal was partly allowed by an order dated 26th November, 2015 with a direction on the Trial Court to return the plaint of the plaintiff for presentation before the appropriate Court.

9. Being aggrieved by the order of the High Court dated 26th November, 2015, Smt. Beena Srivastava, approached this Court by filing Special Leave Petition (Civil) No. 2848 of 2016 which had been dismissed by an order dated 8th September, 2016. From the judgment and order impugned, it appears that it had been submitted before the High Court that Chandra Prakash Srivastava and Smt. Beena Srivastava had also filed a Contempt Application No. 706 of 2016 which had been dismissed by an order dated 10th February, 2016. Before the High Court, it was submitted that when Beena Srivastava could not get any relief from the Trial Court right upto this Court, she filed a Writ Petition No. 12275 of 2016 which

had also been dismissed by an order dated 28th March, 2016. The said Beena Srivastava's son, Dr. Virat Swaroop Saxena also filed a contempt application which had been dismissed by an order dated 29th July, 2016.

10. Pursuant to the order dated 28th March, 2016 passed by the High Court in Writ Petition No.12275/2016, the Appellant instituted Original Suit No.608 of 2016 in the Court of Civil Judge, Senior Division, Gorakhpur for permanent injunction in respect of the plots in question. It appears that by an order dated 12th April, 2016, temporary injunction had been granted in favour of the Appellant. This is recorded in the judgment and order under appeal.

11. It was the case of the applicants before the High Court, (including Rajan Kumar, since deceased), that having failed to get relief from the courts, Beena Srivastava brought in Ratnesh Mishra, Smt. Afroz Athar and Abdul Gani into the picture to harass the Appellant. We are not really concerned with these allegations for the purpose of this appeal.

12. Suffice it to mention that the judgment and order under appeal records the submission of the applicants that the Power of Attorney holder of Bela Rani, namely, Rajan Kumar (since deceased) had executed the sale deed dated 22nd June, 2017 in favour of the Applicant No.2 (that is, the Appellant before us) after receiving

the sale consideration. Later, a supplementary deed was executed on 16.09.2017. On the basis of Sale Deed dated 22nd June, 2017, the name of the Appellant was mutated in the records. Further details of what transpired are not recorded to avoid unnecessary prolixity. Suffice it to mention that the Respondent No.2 filed an FIR in this Court. The relevant extracts from the said FIR, lodged on 16th September, 2017 are reproduced hereinbelow for convenience :-

"The applicant has purchased on 21.08.2017 one house with courtyard in which shops are also present from Smt. Afroz wife of Ghani Athar Resident of Moh. Basharpur, Gorakhpur and Virendra Kumar Abrol son of Ram Swarop Abrol Resident of Jail Road Shahpur currently residing at Raghav Nagar Deoria by way of registered Sale Deed in which one shop made by asbestos sheet and one residential Room with Gate at back side is constructed.

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The said house with boundary wall & shop is registered in the name of Afroz Athar at the Municipal Corporation and she has been paying the applicable house Tax on the same and nobody had interfered in her possession. In the meanwhile, Afroz Athar was in dire need of money and proposed to sell the said Land and house to the applicant. The Applicant purchased the said House No. 239/B with the house and courtyard by way of Sale Deed and as a precautinary measure also got the signatures of the erstwhile owner Virendra Kumar Abrol on the Sale Deed so that no dispute remains in the future. In the meantime, one other person Rajan Kumar son of Late Ramswaroop 77 Geeta Vatika, Shahpur Gorakhpur currently residing at Ragav Nagar Deoria on the basis of a false Power of Attorney of Bela Rani executed a Sale Deed to Randheer Singh son of Late Shiv Shanker House No. 11C Divya Nagar Colony P.S Khorabar, Gorakhpur by connivance whereas Bela Rani had no right to sell the Afroz Athar's House intact with Boundary wall. On the basis of the same False Sale Deed Randheer Singh and Rajan Kumar in association with the witnesses of the said sale deed Vishal Sharma son of Ram Chandra & Sunil Kumar son of Sh. Rajdev, who are Criminal natured persons, are attempting to trespass the house by breaking open the Lock and today night have also got written their name in my absence. When in the morning the applicant got the knowledge of the same he went to the police station to lodge First Information Report but due to their influence our report could not be lodged and for which the applicant is making this application before you. The above stated Randheer Singh and Rajan Kumar have done this to obtain

their benefit & have created a False document and by intention to cause loss to us & to forcibly grab my house and therefore for this reason it is necessary in the interest of justice to registered a case against them. Hence it is prayed that the case be registered"

13. As pointed out by Mr. Sanjeev Agarwal, learned counsel appearing on behalf of Respondent No.2, the FIR was challenged in the High Court of Judicature at Allahabad under Article 226 of the Constitution of India. The said writ petition was disposed of by order dated 5th October, 2017 with the following order:

"It is contended that the dispute in respect of the property as to whether the petitioners have any right therein on the basis of conveyance deed executed by power of attorney holder or the first informant has the right is purely civil in nature and does not give rise to any criminal liability.

Learned AGA and Sri Sudhanshu Pandey, appearing for complainant-respondent no. 3 opposed the petition.

We have gone through the allegations contained in the impugned F.I.R., which, prima-facie, discloses commission of cognizable offence, as such, we are not inclined to interfere in the F.I.R.

However, in view of the facts and the allegations made in the FIR, writ petition stands finally disposed of with the direction that the petitioners shall not be arrested in the aforesaid case crime number till submission of police report under Section 173(2) Cr.P.C. before the Court concerned, subject to their cooperation in the investigation, which will go on and shall be brought to a logical end."

14. Mr. Agarwal, submitted that the order dated 5th October, 2017 of the High Court disposing of the Writ Petition (Criminal Miscellaneous) No.20919 of 2017 had not been challenged by the Appellants and had, thus, assumed finality. It was not open to the Appellant to reopen the same issues by filing an application under Section 482 of the Cr.P.C.

15. The scope of interference by the High Court under Section 482 of the Cr.P.C. is wide as recorded by the High Court by the judgment and order impugned. The High Court itself has said that though inherent power under Section 482 of the Cr.P.C. is very wide, it has to be exercised in exceptional cases.

16. There can be no doubt that the jurisdiction under Section 482 is not exercised for the asking, it is exercised with care in exceptional cases. The scope of interference with an FIR is much more restricted and ordinarily the Court does not interfere under Article 226 of the Constitution of India, when there is an alternative remedy available to the applicant. Furthermore, from the tenor of the order of the High Court rejecting the writ petition, it is patently clear that one of the reasons why the High Court did not intervene at that stage was that the Police report had also not been submitted. The Police report has since been submitted and the charge sheet has been filed. It is true that about 12-13 witnesses have been named. However, the said Bela Rani who executed the Power of Attorney has not even been cited as a witness. Apparently, the said Bela Rani was not even examined by the Investigating Authorities.

17. In this appeal, we are not concerned with the underlying civil disputes between the parties which are the subject matter of diverse civil proceedings which are pending between the Appellant

and the private respondent in the concerned civil courts. All those civil suits will obviously be decided on their own merits.

18. The only question is whether there is any criminal offence disclosed in the FIR so far as the Appellant is concerned. When the High Court passed its order dated 5th October, 2017, Rajan Kumar (since deceased), the executant of the sale deed and the Power of Attorney holder was also an applicant before the Court. Today, there has been a change in situation, in that, criminal proceedings against Rajan Kumar have abated since Rajan Kumar is no longer alive. It is the case of the private respondent that the private respondent purchased property. In the meantime, Rajan Kumar, who is no longer alive, on the basis of a false Power of Attorney of Bela Rani, executed a sale deed in favour of Randheer Singh, i.e., the Appellant herein. There is only a vague averment "by connivance". The next part of the sentence reads "Bela Rani had no right to sell the aforesaid plot."

19. As recorded in the judgment and order, the property in question has even been mutated in the name of the Appellant. Of course, mutation records are not a document of title. Whether Bela Rani had title, whether she validly executed a power of attorney, whether any right has accrued to the Appellant, are matters for the civil court to adjudicate.

20. There is a further allegation that on the basis of the false sale deed, the Appellant and Rajan Kumar (since deceased) in association with the witnesses of the sale deed who are "criminal natured persons" were attempting to trespass the house by breaking open the lock and had got written their name in the absence of the complainant.

21. It is interesting that a charge sheet was filed, the relevant part whereof is extracted hereinbelow for convenience :-

"16. Brief fact of the case :

The case was successful on the basis of the plaintiff. Further, the investigation was transferred from police station Shahpur to the Crime Branch.

The above investigation was done by me. So for during the investigation the statements of the witness and sec. 420, 467, 468, 471 of IPC has been registered against the accused.

The accused is send to the court, punished the accused by summing."

22. The charge sheet is totally vague. There is not even a whisper in the charge-sheet of what transpired from the investigation against the Appellant herein.

23. Even though an FIR need not contain every detail, an offence has to be made out in the FIR itself. It is the case of the Private Respondents that Bela Rani has no title. Bela Rani executed a false Power of Attorney in favour of Rajan Kumar (since deceased). Alternatively, the Power of Attorney, in itself, was a forged document.

24. A fraudulent, fabricated or forged deed could mean a deed which was not actually executed, but a deed which had fraudulently been manufactured by forging the signature of the ostensible executants. It is one thing to say that Bela Rani fraudulently executed a Power of Attorney authorising the sale of property knowing that she had no title to convey the property. It is another thing to say that the Power of Attorney itself was a forged, fraudulent, fabricated or manufactured one, meaning thereby that it had never been executed by Bela Rani. Her signature had been forged. It is impossible to fathom how the investigating authorities could even have been *prima facie* satisfied that the deed had been forged or fabricated or was fraudulent without even examining the apparent executant Bela Rani, who has not even been cited as a witness.

25. Ms. Deepika Kalia, learned counsel appearing on behalf of the State, competently argued the matter and vehemently tried to persuade this Court not to intervene. She even sought time to produce further documents. However, the charge-sheet speaks for itself and there could be no question of improvement of the charge-sheet read with the FIR, either by adducing documents or by filing affidavit or by making oral submissions.

26. Mr. Chandra Prakash, learned counsel appearing on behalf of the Appellant cited certain judgments of this Court in Mohd. Ibrahim & Others v. State of Bihar [(2009) 8 SCC 751]; Paramjeet Batra v. State of Uttarakhand [(2013) 11 SCC 673]; Uma Shankar

Gopalika v. State of Bihar & Anr. [(2005) 10 SCC 336]; Vesa Holdings Private Limited & Anr. v. State of Kerala & Ors. [(2015) 8 SCC 293]; Robert John D'Souza & Ors. v. Stephen V. Gomes & Anr. [(2015 (9) SCC 96]; and Kapil Agarwal & Ors. v. Sanjay Sharma & Ors. [(2021) 5 SCC 524].

27. In Mohd. Ibrahim (supra), this Court held as under :-

"19. To constitute an offence under Section 420, there should not only be cheating, but as a consequence of such cheating, the accused should have dishonestly induced the person deceived

- (i) to deliver any property to any person, or
- (ii) to make, alter or destroy wholly or in part a valuable security (or anything signed or sealed and which is capable of being converted into a valuable security).

20. When a sale deed is executed conveying a property claiming ownership thereto, it may be possible for the purchaser under such sale deed to allege that the vendor has cheated him by making a false representation of ownership and fraudulently induced him to part with the sale consideration. But in this case the complaint is not by the purchaser. On the other hand, the purchaser is made a co-accused.

21. It is not the case of the complainant that any of the accused tried to deceive him either by making a false or misleading representation or by any other action or omission, nor is it his case that they offered him any fraudulent or dishonest inducement to deliver any property or to consent to the retention thereof by any person or to intentionally induce him to do or omit to do anything which he would not do or omit if he were not so deceived. Nor did the complainant allege that the first appellant pretended to be the complainant while executing the sale deeds. Therefore, it cannot be said that the first accused by the act of executing sale deeds in favour of the second accused or the second accused by reason of being the purchaser, or the third, fourth and fifth accused, by reason of being the witness, scribe and stamp vendor in regard to the sale deeds, deceived the complainant in any manner.

22. As the ingredients of cheating as stated in Section 415 are not found, it cannot be said that there was an offence punishable under Sections 417, 418, 419 or 420 of the Code.

A clarification

23. When we say that execution of a sale deed by a person, purporting to convey a property which is not his, as his property, is not making a false document and therefore not forgery, we should not be understood as holding that such an act can never be a criminal offence. If a person sells a property knowing that it does not belong to him, and thereby defrauds the person who purchased the property, the person defrauded, that is, the purchaser, may complain that the vendor committed the fraudulent act of cheating. But a third party who is not the purchaser under the deed may not be able to make such complaint.

24. The term "fraud" is not defined in the Code. The dictionary definition of "fraud" is "deliberate deception, treachery or cheating intended to gain advantage". Section 17 of the Contract Act, 1872 defines "fraud" with reference to a party to a contract.

27. The term "fraudulently" is mostly used with the term "dishonestly" which is defined in Section 24 as follows:

"24. 'Dishonestly'.—Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person is said to do that thing 'dishonestly'."

28 [Ed.: Para 28 corrected vide Official Corrigendum No. F.3/Ed.B.J./149/2009 dated 6-10-2009.] . To "defraud" or do something fraudulently is not by itself made an offence under the Penal Code, but various acts when done fraudulently (or fraudulently and dishonestly) are made offences. These include:

- (i) Fraudulent removal or concealment of property (Sections 206, 421 and 424).
- (ii) Fraudulent claim to property to prevent seizure (Section 207).
- (iii) Fraudulent suffering or obtaining a decree (Sections 208 and 210).
- (iv) Fraudulent possession/delivery of counterfeit coin (Sections 239, 240, 242 and 243).
- (v) Fraudulent alteration/diminishing weight of coin (Sections 246 to 253).
- (vi) Fraudulent acts relating to stamps (Sections 255 to 261).
- (vii) Fraudulent use of false instrument/weight/measure (Sections 264 to 266).
- (viii) Cheating (Sections 415 to 420).
- (ix) Fraudulent prevention of debt being available to creditors (Section 422).

- (x) Fraudulent execution of deed of transfer containing false statement of consideration (Section 423).
- (xi) Forgery making or executing a false document (Sections 463 to 471 and 474).
- (xii) Fraudulent cancellation/destruction of valuable security, etc. (Section 477).
- (xiii) Fraudulently going through marriage ceremony (Section 496).

It follows therefore that by merely alleging or showing that a person acted fraudulently, it cannot be assumed that he committed an offence punishable under the Code or any other law, unless that fraudulent act is specified to be an offence under the Code or other law.

Section 504 of the Penal Code

29. The allegations in the complaint do not also make out the ingredients of an offence under Section 504 of the Penal Code. Section 504 refers to intentional insult with intent to provoke breach of peace.

The allegation of the complainant is that when he enquired with Accused 1 and 2 about the sale deeds, they asserted that they will obtain possession of land under the sale deeds and he can do whatever he wants. The statement attributed to Appellants 1 and 2, it cannot be said to amount to an "insult with intent to provoke breach of peace". The statement attributed to the accused, even if it was true, was merely a statement referring to the consequence of execution of the sale deeds by the first appellant in favour of the second appellant.

Conclusion

30. The averments in the complaint if assumed to be true, do not make out any offence under Sections 420, 467, 471 and 504 of the Code, but may technically show the ingredients of offences of wrongful restraint under Section 341 and causing hurt under Section 323 IPC."

28. In Paramjeet Batra (supra), this Court held that :-

"12. While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends

upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process of the court."

29. In Uma Shankar Gopalika (supra), this Court found that the complaint, in that case, did not disclose any criminal offence at all, much less any offence under Section 420 or Section 120B IPC. The case was purely a civil dispute between the parties for which remedy lay before the civil Court.

30. In Vesa Holdings Private Limited (supra), this Court held :-

"13. It is true that a given set of facts may make out a civil wrong as also a criminal offence and only because a civil remedy may be available to the complainant that itself cannot be a ground to quash a criminal proceeding. The real test is whether the allegations in the complaint disclose the criminal offence of cheating or not. In the present case there is nothing to show that at the very inception there was any intention on behalf of the accused persons to cheat which is a condition precedent for an offence under Section 420 IPC. In our view the complaint does not disclose any criminal offence at all. The criminal proceedings should not be encouraged when it is found to be mala fide or otherwise an abuse of the process of the court. The superior courts while exercising this power should also strive to serve the ends of justice. In our opinion, in view of these facts allowing the police investigation to continue would amount to an abuse of the process of the court and the High Court committed an error in refusing to exercise the power under Section 482 of the Criminal Procedure Code to quash the proceedings."

31. In Robert John D'Souza (supra), this Court held :

"12. As far as the offence of cheating is concerned, the same is defined in Section 415 IPC, for which the punishment is provided under Section 420 IPC. Section 415 reads as under:

"415. Cheating.—Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to 'cheat'.

Explanation.—A dishonest concealment of facts is a deception within the meaning of this section.

Illustrations

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From the above language of the section, one of the essential ingredients for the offence of cheating is deception, but in the present case, from the contents of the complaint it nowhere reflects that the complainant was deceived or he or anyone else was induced to deliver the property by deception. What was done, was so reflected in the resolutions, and sale deeds.

13. In Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre [(1988) 1 SCC 692 : 1988 SCC (Cri) 234] a three-Judge Bench of this Court has laid down the law as to quashment of proceedings under Section 482 CrPC as follows: (SCC p. 695, para 7)

"7. The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilised for any oblique purpose and where in the opinion of the court chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage."

15. In *Inder Mohan Goswami v. State of Uttaranchal* [(2007) 12 SCC 1 : (2008) 1 SCC (Cri) 259] , this Court in paras 25 and 46 has observed as under: (SCC pp. 10-11 & 16)

"25. Reference to the following cases would reveal that the courts have consistently taken the view that they must use this extraordinary power to prevent injustice and secure the ends of justice. The English courts have also used inherent power to achieve the same objective. It is generally agreed that the Crown Court has inherent power to protect its process from abuse. In *Connelly v. Director of Public Prosecutions* [1964 AC 1254 : (1964) 2 WLR 1145 : (1964) 2 All ER 401 (HL)] Lord Devlin stated that where particular criminal proceedings constitute an abuse of process, the court is empowered to refuse to allow the indictment to proceed to trial. Lord Salmon in *Director of Public Prosecutions v. Humphrys* [1977 AC 1 : (1976) 2 WLR 857 : (1976) 2 All ER 497 (HL)] stressed the importance of the inherent power when he observed that it is only if the prosecution amounts to an abuse of the process of the court and is oppressive and vexatious that the Judge has the power to intervene. He further mentioned that the court's power to prevent such abuse is of great constitutional importance and should be jealously preserved.

46. The court must ensure that criminal prosecution is not used as an instrument of harassment or for seeking private vendetta or with an ulterior motive to pressurise the accused. On analysis of the aforementioned cases, we are of the opinion that it is neither possible nor desirable to lay down an inflexible rule that would govern the exercise of inherent jurisdiction. Inherent jurisdiction of the High Courts under Section 482 CrPC though wide has to be exercised sparingly, carefully and with caution and only when it is justified by the tests specifically laid down in the statute itself and in the aforementioned cases. In view of the settled legal position, the impugned judgment cannot be sustained."

16. In view of the above discussion and the facts and circumstances of the case, we are of the view that none of the offences for which the appellants are summoned, is made out from the complaint and material on record. We further find that it is nothing but abuse of process of law on the part of the complainant to implicate the appellants in a criminal case after a period of twelve years of execution of registered sale deeds in question, who is neither party to the sale deeds nor a member of the Society. Therefore,

we allow the appeal and set aside the orders passed by the High Court and that of the courts below. Accordingly, the order passed by the Magistrate summoning the appellants in the criminal complaint filed by Respondent 1, in respect of the offences punishable under Sections 406, 409 and 420 IPC, also stands quashed."

32. In Kapil Agarwal (supra), this Court observed that Section 482 is designed to achieve the purpose of ensuring that criminal proceedings are not permitted to generate into weapons of harassment.

33. In this case, it appears that criminal proceedings are being taken recourse to as a weapon of harassment against a purchaser. It is reiterated at the cost of repetition that the FIR does not disclose any offence so far as the Appellant is concerned. There is no whisper of how and in what manner, this Appellant is involved in any criminal offence and the charge sheet, the relevant part whereof has been extracted above, is absolutely vague. There can be no doubt that jurisdiction under Section 482 of the Cr.P.C. should be used sparingly for the purpose of preventing abuse of the process of any court or otherwise to secure the ends of justice. Whether a complaint discloses criminal offence or not depends on the nature of the allegation and whether the essential ingredients of a criminal offence are present or not has to be judged by the High Court. There can be no doubt that a complaint disclosing civil transactions may also have

a criminal texture. The High Court has, however, to see whether the dispute of a civil nature has been given colour of criminal offence. In such a situation, the High Court should not hesitate to quash the criminal proceedings as held by this Court in *Paramjeet Batra* (supra) extracted above.

34. The given set of facts may make out a civil wrong as also a criminal offence. Only because a civil remedy is available may not be a ground to quash criminal proceedings. But as observed above, in this case, no criminal offence has been made out in the FIR read with the Charge-Sheet so far as this Appellant is concerned. The other accused Rajan Kumar has died.

35. The appeal is, thus, allowed. The impugned judgment and order of the High Court is set aside and the proceedings in Crime Case No.5973/2020 are quashed as against the Appellant.

CRIMINAL APPEAL NO. 933 OF 2021

36. Leave granted.

37. The issues involved in this appeal are identical to the issues involved in Appeal No. 932 of 2021 disposed of earlier today. We may add that in this case, the Appellants are only witnesses to the sale deed and there is not a word anywhere in the FIR about these witnesses except the vague averment that they acted in collusion.

38. For the reasons discussed in Criminal Appeal No. 932 of 2021, this appeal is also allowed and Crime Case No.5973 of 2020 is set aside so far as these Appellants are concerned.

....., J.
(Indira Banerjee)

....., J.
(J.K. Maheshwari)

New Delhi;
September 02, 2021.