ABC 2025 (II) 241 SC

ACQUITTAL & BAIL CASES

SUPREME COURT OF INDIA

(Vikram Nath & Sandeep Mehta, JJ.)

Criminal Appeal No.(s). of 2025

(Arising out of SLP (Crl.) No(s). 10748 of 2023)

Decided on 18 July 2025

MALA CHOUDHARY & ANR. ***- Appellant(s).***

Versus

STATE OF TELANGANA & ANR. ***- Respondent(s).***

Law Covered:-*(A) Code of Criminal Procedure, 1973 -- Section 482 (Bharatiya Nagarik Suraksha Sanhita, 2023 -- Section 528) -- Indian Penal Code, 1860 -- Sections 406 & 420 (Bharatiya Nyaya Sanhita, 2023 -- Sections 316(2)&318(4)) -- Quashing of FIR -- Civil Dispute Disguised as Criminal Offence -- Abuse of Process of Law -- Held, where the core of the dispute arises from a breach of an oral agreement to sell &non-payment of consideration, &the allegations, even if taken at face value, do not disclose the essential ingredients of cheating or criminal breach of trust, the FIR &consequent proceedings constitute a gross abuse of the process of law &must be quashed -- The existence of a parallel civil suit for specific performance reinforces the civil nature of the dispute. (Paras 9, 12-14, 18)*

(B) Code of Criminal Procedure, 1973 -- Section 482 (Bharatiya Nagarik Suraksha Sanhita, 2023 -- Section 528) -- High Court's Duty in Quashing Petitions -- Non-Application of Mind -- Perfunctory & Cryptic Orders -- Held, a High Court, while exercising its inherent powers under Section 482 CrPC, must apply its mind to the merits of the case &cannot dispose of a quashing petition in a cursory &laconic manner without addressing the substantive legal issues raised -- Such an approach is impermissible. (Paras 4, 16-17)

(C) Indian Penal Code, 1860 -- Sections 406 & 420 (Bharatiya Nyaya Sanhita, 2023 -- Sections 316(2)&318(4)) -- Essential Ingredients of Cheating & Criminal Breach of Trust -- Distinction from Civil Disputes -- Held, for an offence of cheating, there must be a dishonest intention from the very inception, &for criminal breach of trust, there must be entrustment of property -- A mere breach of contract or failure to fulfil a promise, without evidence of fraudulent or dishonest intention at the time of making the promise, does not constitute a criminal offence. (Paras 9, 12-13)

(D) Supreme Court -- Article 136 of the Constitution of India -- Exercise of Extraordinary Jurisdiction -- To Prevent Harassment & Secure Ends of Justice -- The Supreme Court may directly interfere &quash criminal proceedings under Article 136 to prevent harassment &humiliation, especially when the High Court has failed to perform its duty &the facts on record compellingly demonstrate a blatant misuse of the criminal justice system. (Paras 5, 18)

(E) Costs -- Exemplary Costs -- Misuse of Criminal Process -- Held, in cases of egregious misuse of the criminal justice system to settle purely civil disputes, the Court may impose exemplary costs on the complainant to deter such malicious litigation. (Para 21)

(F) Police Protection -- Direction for -- Apprehension of Harm -- The Court can direct the state police to provide appropriate security to individuals who have been victimized by a false prosecution &have a genuine apprehension of harm from the influential complainant, upon prior intimation. (Para 20)

Facts:-*The appellants, a 70-year-old widow of a retired Army officer &her daughter, were accused of cheating &criminal breach of trust concerning an oral agreement to sell a plot of land. The core dispute revolved around the non-execution of a sale deed after the receipt of a substantial part of the sale consideration via banking channels. The complainant, an agent for an influential builder, filed an FIR alleging fraudulent inducement, which led to the arrest &custodial detention of the elderly appellant. The appellants sought quashing of the FIR before the High Court, which disposed of the petition without examining the merits. The Supreme Court, exercising its jurisdiction under Article 136, found the FIR to be a blatant abuse of process, as the allegations disclosed a purely civil dispute lacking the essential ingredients of the invoked penal offences. The Court quashed the FIR &all ensuing proceedings, imposed significant costs on the complainant for misuse of the legal process, &directed police protection for the appellants.*

Law of relief:-**(i) For an offence of cheating, there must be a dishonest intention from the very inception, & for criminal breach of trust, there must be entrustment of property.**

(ii) In cases of egregious misuse of the criminal justice system to settle purely civil disputes, the Court may impose exemplary costs on the complainant to deter such malicious litigation.

Counsel:-

For Petitioner(s): *Divya Jyoti Singh.*

For Respondent(s): *Devina Sehgal Sandeep Singh.*

JUDGMENT

Sandeep Mehta, J.: -

1. Heard.

2. Leave granted.

3. The appellants herein have approached this Court by way of the instant appeal, under Article 136 of the Constitution of India, for assailing the final order dated 28th April, 2023 passed by the High Court of Telangana at Hyderabad (High Court) in Criminal Petition No. 7869 of 2021 whereby the High Court dismissed the petition filed by the appellants, seeking quashing of the FIR No. 771 of 2020 registered at Police Station Gachibowli, Cyberabad and the Criminal Case No. 3613 of 2021 registered on the file of XII Addl. Metropolitan Magistrate, Kukatpally, Ranga Reddy District pursuant to the chargesheet filed as a sequel to the investigation of the aforesaid FIR. The High Court decided the petition filed by the appellants in the following manner:

> "This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') by the petitioners/ accused Nos. 1 and 2 to quash the proceedings against them in C.C.No.3613 of 2021 on the file of the learned XII Additional Metropolitan Magistrate, Kukatpally. The offences alleged against the petitioners are under Sections 406 and 420 of the Indian Penal Code (for short 'IPC').
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> 2. Heard learned counsel for the petitioners as well as learned Additional Public Prosecutor for the respondent State. Perused the record.
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> 3. Learned counsel for the petitioners would submit that an Advocate would represent the petitioners/accused Nos. 1 and 2.
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> 4. In the event of the petitioners/accused Nos. 1 and 2 filing an application under Section 205 of Cr.P.C., the same shall be considered by the Trial Court on conditions.
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> 5. Accordingly, Criminal Petition is disposed of.
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> Miscellaneous applications pending, if any, shall stand closed."

4. We find the approach of the High Court in casually disposing of the petition filed by the appellants, seeking quashing of the proceedings, without addressing the merits of the matter to be absolutely laconic and perfunctory.

5. We contemplated setting aside the impugned order on this preliminary ground itself and could have remanded the matter back to the High Court for fresh consideration. However, the facts as set out in the FIR and the chargesheet, compel us to interfere in exercise

of the extraordinary jurisdiction under Article 136 of the Constitution of India, in order to secure the ends of justice and to ensure that no further harassment and humiliation is caused to the appellants.

6. Succinctly stated, the facts relevant and essential for disposal of the appeal are noted hereinbelow.

6.1. Appellant No. 1 is 70 years old, wife of Late Army personnel, Major General PSK Choudhary, and appellant No. 2 is her daughter aged about 50 years. Both are residents of New Delhi. Appellant No. 1 owns a piece of land admeasuring about 500 square yards, bearing Plot No. 82 in Survey No. 124 and 125, Gachibowli Village, Rajendra Nagar Taluk, Kothaguda Gram Panchayat, Ranga Reddy District, Telangana (subject land). The said land was gifted to appellant No. 1 by her paternal grandmother.

6.2. Around the year 2020, respondent No. 2 (complainant) approached the husband of appellant No. 1, i.e., Late Major General PSK Choudhary, showing an interest in purchasing the said plot of land. At that time, the value of the plot was assessed at Rs. 7,00,00,000/- (Rupees Seven Crores only). Unfortunately, Major General Choudhary passed away before any agreement, whether written or oral, could be executed between the parties.

6.3. It is the case of the appellants that they found the management of the property from Delhi to be difficult, therefore, on 5th October, 2020, they orally agreed to sell the subject land to the complainant on the following terms and conditions:

- The total sale consideration was settled at Rs. 5,75,00,000/- provided that the entire consideration amount was paid in a single tranche on or before 7th October, 2020.
- Failure to make the said payment by 7th October, 2020 would result in a revised offer, increasing the sale price to Rs. 6,50,00,000/-, with a caveat that the entire consideration would have to be paid on or before 7th November, 2020.
- It was also agreed that the failure to make the payment by 7th November, 2020 would result in a revised offer, further increasing the sale price to Rs. 7,50,00,000/-.

6.4. Acting in furtherance of the oral agreement, the complainant transferred a sum of Rs. 4,05,00,000/- to the bank account of the appellants by different instruments/modes, i.e., cheques and/or RTGS uptill 16th November, 2020.

6.5. The appellant's case is that no further amount was paid to them in terms of the oral agreement whereas, the complainant claims to have paid a sum of Rs. 75,00,000/- in cash to the appellants at the time of the execution of oral agreement to sell.

6.6. In spite of failing to adhere to the terms and conditions of the oral agreement to sell, the complainant who happens to be an agent of an influential builder/property dealer i.e., M/s Sandhya Constructions and Estates Pvt. Ltd. in the State of Telangana, started pressurizing the appellants to get the sale deed registered in the company's favour. The appellants kept on requesting the complainant to clear the outstanding amount and then come forward for getting the registered sale deed executed.

6.7. As per the appellants, the complainant transmitted WhatsApp messages dated 27th February, 2020 calling off the deal. However, when the transaction could not be materialized, the complainant lodged a complaint dated 11th December, 2020 against the appellants herein on the basis whereof, an FIR bearing Case No. 771 of 2020 came to be registered at the Police Station Gachibowli, District Cyberabad on 14th December, 2020.

6.8. It was inter alia alleged in the FIR that Mrs. Mala Choudary (appellant No. 1) and her daughter, Puttagunta Revathi Choudary (appellant No. 2), induced the complainant (respondent No. 2) to believe that they will sell their properties (1) Plot No. 82 admeasuring 500sq. yds., situated at FCI Society, Sy. No. 124 & 125, Gachibowli Village, Serilingampally Mandal, Ranga Reddy District; and (2) Farm admeasuring Ac. 2-00 at Chhatarpur Area, New Delhi to the complainant for a total consideration of Rs. 5,00,00,000/-(Rupees Five Crores only). The complainant was assured by the accused appellants that they have good relations with the neighbouring plot owner Mr. Devraj and they would ensure that he would also sell his plot to them. Believing the words of the appellants, the complainant agreed and entered into the oral agreement to sell by paying Rs. 75,00,000/- (Rupees Seventy-Five Lakhs only) upfront in cash to the appellants. As registrations were temporarily suspended in the State of Telangana, the parties agreed that the balance money would be paid at the time of registration. However, Mrs. Mala and Mrs. Revathy (appellants herein) pleaded with them that they were without any sources of income and needed the money urgently. They assured to come for registration once the process opened. Trusting the word of the appellants, at their insistence, the complainant had

transferred an amount of Rs.4,05,00,000/- (Rupees Four Crores Five Lakhs only) through RTGS to the bank account of Puttagunta Revathi Choudary (appellant No.2). The details of the transaction were described as (1) Cheque No. 481903 dated 7th October, 2020 drawn on Axis Bank for an amount of Rs. 50,00,000/-; (2) Cheque dated 8th October, 2020 drawn on Axis Bank for an amount of Rs. 1,25,00,000/-; (3) Cheque No. 441116 dated 22nd October, 2020 drawn on Axis Bank for an amount of Rs. 1,00,00,000/-; (4) Cheque No. 484631 dated 11th November, 2020 drawn on Axis Bank for an amount of Rs. 90,00,000/-; and (5) Cheque No. 484644 dated 16th November, 2020 drawn on Axis Bank for an amount of Rs. 40,00,000/-.

6.9. The complainant came to know that the accused appellants had come to Hyderabad and therefore, they were requested to sign the agreement of sale/sale deeds, which could be registered once registration resumes in State of Telangana, and subsequently complete the transactions in Delhi.

6.10. However, after receiving such a huge amount, the accused appellants were stating that they would neither register the property, nor return the money. Further, they advanced threats that if anyone came to their house asking for the money, they would kill them. Further, Mrs. Mala Choudhary (appellant No.1) came to the site with her henchmen in 3 cars and threatened the persons who were present there. Mrs. Mala's henchmen also threatened that she would neither refund the money nor register the property in favour of the complainant and in case if anyone entered the plot, serious consequences would ensue. Incorporating these allegations in the complaint, the complainant prayed to take necessary action under criminal law against the said accused persons.

6.11. Appellant No.1 who is an old lady aged about 70 years was served a notice under Section 41A of the Code of Criminal Procedure, 1973 (For short "CrPC") by the Investigation Officer asking her to join the investigation. At that point of time, appellant No.1 was suffering from serious medical issues arising from a vertebral fracture and, therefore, she requested to be allowed to join the investigation via video conferencing.

6.12. The Investigation Officer did not relent to this submission of appellant No.1 on which, she came down to Telangana for presenting herself before the Magistrate. However, she was arrested in connection with the impugned FIR dated 14th December, 2020 and was kept in custody for eight days i.e., from 13th January,

2021 to 19th January, 2021.

6.13. Appellant No.1 was granted regular bail by the competent Court on 19th January, 2021, but she actually came to be released from prison on 21st January, 2021. It is the case of the appellants that the Telangana police, along with the local police force barged into the house of the accused appellants at New Delhi where appellant No. 2 was present in order to harass and humiliate them at the instance of the complainant.

6.14. Being aggrieved, the appellants preferred a petition under Section 482 CrPC in the High Court of Telangana, seeking quashing of the FIR and all proceedings consequent thereto. However, as noted above, the learned Single Judge of the High Court, in an absolutely cursory manner and by way of a cryptic order, proceeded to dispose of the petition without even touching the merits of the case. The said order dated 28th April, 2023 passed by the High Court is the subject matter of challenge in this appeal by special leave.

Submissions on behalf of the appellants: -

7. Ms. Vanshaja Shukla, learned counsel for the appellants, vehemently and fervently contended that the substratum of the allegations as levelled in the impugned FIR is absolutely false and fabricated. The complainant i.e., respondent No. 2 represents an influential builder Company by the name of M/s. Sandhya Constructions & Estates Pvt. Ltd. The Company, which has tremendous clout in the State of Telangana, has used its influence to falsely implicate appellants in a criminal case when the facts as set out in the FIR disclose a dispute which is purely civil in nature. She further pointed out that the complainant has already availed the remedy under civil law by filing a suit for specific performance bearing Original Suit No. 95 of 2021 before the competent civil Court at Telangana.

7.1. The averments as set out in the suit clearly indicate that the grievance which is raised therein is limited to the oral agreement pertaining to the 500 sq. yard plot of land situated in Ranga Reddy District, Telangana. The pleadings in the suit and the FIR which emanate from the same transaction are in stark contradiction to each other. While the relief of specific performance sought in the suit is limited to a plot of land measuring 500 sq. meters, in total contrast, the complainant, while filing the FIR, has attempted to exaggerate the dispute by covering in the oral agreement another property owned by the appellants, i.e., a farm house at Delhi, as well as an adjoining

piece of land owned by another party. She submitted that the case set up by the complainant in the impugned FIR that the oral agreement was for a sum of Rs. 5,00,00,000/- (Rupees Five Crores only) of which, a sum of Rs. 75,00,000/- was paid in cash is totally false and fabricated. There is no supporting material on the record of the case to substantiate the allegation of the complainant that the oral agreement was for a sum of Rs. 5,00,00,000/- (Rupees Five Crores only). She urged that even as on date and despite appellant No. 1 having faced the harassment and humiliation of being imprisoned for eight days in the patently frivolous FIR, the appellants are fairly offering to return the amount of Rs. 4,05,00,000/- received through banking transactions to the complainant i.e., respondent No.2 on the condition that the civil suit is withdrawn.

7.2. Ms. Shukla relied upon the judgments of this Court in **Rikhab Birani v. The State of Uttar Pradesh: 2025 SCC OnLine SC 823**; **Paramjeet Batra v. State of Uttarakhand and Ors.: (2013) 11 SCC 673**; **Sachin Garg v. State of State of UP and Anr.: 2024 SCC OnLine SC 82**; **A.M. Mohan v. The State represented by SHO and Anr.: (2024) 3 SCR 722** and **Lalit Chaturvedi & Ors. v. State of Uttar Pradesh and Anr.: (2024) SCC 171** to urge that the impugned FIR and all proceedings sought to be taken in furtherance thereof against the appellants are nothing short of gross abuse of the process of law and hence, the same deserve to be quashed.

Submissions on behalf of the respondents: -

8. E-converso, learned counsel representing the complainant (respondent No.2) and the learned standing counsel appearing for the State of Telangana, have opposed the submissions advanced by the counsel for the appellants. They vociferously urged in one voice that the appellants fraudulently induced the complainant to believe that they would not only sell their own lands to the complainant for a consideration of Rs. 5,00,00,000/-, but in addition thereto, they also assured the complainant that they would facilitate the purchase of the adjoining land owned by someone else also.

8.1. They alleged that the actions of the appellants were actuated with dishonest intent right from the inception of the dealings. They acted with deceit and induced the complainant into the transaction, without ever intending to keep their word. In this fraudulent manner, they persuaded the complainant to part with the entire sale consideration and subsequently reneged on their promise to execute the sale deed in favour of the complainant. Thus, it was

contended that the FIR discloses the necessary ingredients of the alleged offences, and it is not a fit case warranting interference by this Court under Article 136 of the Constitution of India.

8.2. Responding to the offer made by the appellants to return the amount of Rs. 4,05,00,000/- which was transferred *via* banking transactions, the counsel for the complainant urged that if the said amount is paid with interest, then in such situation, the complainant may consider settling the entire dispute with the appellants.

8.3. However, Ms. Shukla, on instructions categorically stated that the complainant has embroiled the appellants in the false and malicious prosecution for the last 5 years and hence, he cannot claim interest on the amount.

Discussion & Conclusion

9. Having given our thoughtful consideration to the submissions advanced at bar and after going through the impugned FIR and the pleadings of the suit for specific performance filed by the complainant, we are convinced that this is a classic case of the complainant (respondent No. 2), who seems to be wielding some clout in the State of Telangana, misusing the process of police investigation so as to entangle the accused appellants who are residents of New Delhi, in a totally false and frivolous prosecution for the offences punishable under Sections 406 and 420 of the Indian Penal Code, 1860.

10. The complainant has tried to portray in the FIR that not only did the accused appellants agree to transfer plot No. 82 admeasuring 500 sq. yard for a consideration of Rs. 5,00,00,000/- (Rupees Five Crores only), but in addition thereto, it was alleged that appellant No. 1 claimed that she had good relations with the neighbouring plot owner, Mr. Devraj and would ensure that he also sells his plot to respondent No. 2 on her intervention.

11. The averments in the impugned FIR are to the effect that the accused appellants orally agreed to sell plot No. 82 and a farm house at Delhi to the complainant for a total consideration of Rs. 5,00,00,000/- (Rupees Five Crores only) whereas in a civil suit which was filed much after the lodging of the FIR, the complainant has specifically averred that the agreement for sale was made for a consideration of Rs. 1,15,000/- per square yard and the total value of the plot was Rs. 5,75,00,000/-. Thus, there is a drastic variance in the complainant's allegations qua the oral agreement as narrated in the FIR vis-a-vis as set out in the plaint. In order to aggravate the

allegations, the complainant also alleged in the FIR that the accused appellants assured the complainant that on the intervention of appellant No. 1, the neighbouring plot owner i.e., Mr. Devraj would also sell his plot to the complainant. However, the averments in the civil suit instituted by the complainant do not bear even a semblance of this aspersion.

12. Thus, clearly the complainant has manipulated and distorted the facts and has used its influence for getting the FIR registered against the appellants. On a bare reading of the FIR, it is clear that a plain and simple dispute involving non-execution of a registered sale deed in terms of so-called oral agreement to sell has been given the cloak of a criminal case by misusing the criminal machinery. Not only this, appellant No. 1 being a 70 years' old lady and wife of a retired Army officer was arrested in connection with this false and frivolous FIR and had to remain in the custody for almost eight days.

13. We are of the firm opinion that even from the admitted allegations set out in the complaint, there was no justification for registering the FIR and rather the complainant should have been instructed to avail the appropriate remedy by approaching the civil Court.

14. In gross disregard to all tenets of law, the impugned FIR came to be registered for allegations which had no elements of any offence whatsoever what to talk of a cognizable offence. The fact that appellant No. 1 was arrested in this frivolous FIR clearly shows the clout of the company of which the complainant is an agent, on the police agency as not only did the complainant manage to get the FIR registered, but thereafter, also saw to it that appellant No. 1 is arrested and humiliated by keeping her in custody for eight days. During the course of the hearing of the appeal, the appellants fairly offered to return the amount of Rs. 4,05,00,000/- transferred to them by the complainant through valid banking transactions but the counsel for the complainant on instructions stated that the complainant is not interested in accepting the same and demanded interest on the amount for settling the dispute.

15. We feel that rather than awarding interest to the complainant, it is a fit case wherein the complainant should be penalized with exemplary cost for misusing the process of criminal law in a case which was of purely civil nature.

16. We are also of the firm view that the High Court acted with absolute pedantic approach, while disposing of the quashing

petition filed by the appellants in the cryptic manner as indicated above, without even touching the merits of the case.

17. The approach of the High Court in throwing out the quashing petition in such a cursory manner cannot be appreciated. Hence, we are of the opinion that the appeal merits acceptance and deserves to be allowed.

18. Exercising the jurisdiction of this Court under Article 136 of the Constitution of India, we hereby quash and set aside the impugned order dated 28th April, 2023 passed by the High Court and as a consequence, the FIR No. 771 of 2020 dated 14th December 2020, and all proceedings sought to be taken in furtherance thereof are declared to be gross abuse of the process of law and are hereby quashed and set aside.

19. The fair offer made by the appellants during the course of hearing of this appeal to refund the amount received through banking transactions and the blunt refusal of the complainant to the said proposal shall be taken on record in the proceedings of the civil suit.

20. During the course of hearing of the appeal, Ms. Shukla, learned counsel for the appellants had requested that police protection should be provided to the appellants whenever they go to Hyderabad for the management of their properties because they apprehend harm at the hands of the complainant. In view of the foregoing discussion, we are of the firm opinion that the appellants deserve such relief, and accordingly, it is hereby directed that, as and when the appellants proceed to Hyderabad/Telangana in connection with the management of their property/properties, they shall send a prior intimation by e-mail to the Superintendent of Police/ Commissioner of Police, who shall ensure that appropriate security is provided to them.

21. A cost of Rs. 10,00,000/- (Rupees Ten Lakhs only) is imposed on the complainant i.e., respondent No. 2 for misusing the process of criminal law and entangling the appellants, who are the wife and daughter respectively of a Retd. Army Major General, in a totally false and concocted criminal case.

22. The cost shall be transferred to the account of the appellants, the details of which may be provided in the Registry within a period of 30 days from today.

23. The appeal is allowed in these terms.

24. Pending application(s), if any, shall stand disposed of.

***Result*:-** Appeal allowed. Impugned order passed by the High Court set aside. FIR No. 771 of 2020 and all consequent proceedings quashed. Exemplary costs of ₹10,00,000 imposed on the complainant. Direction for police protection issued. Appellants' offer to refund and complainant's refusal thereto directed to be taken on record in the pending civil suit.

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