



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 27th November, 2025

Pronounced on: 15th January, 2026

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W.P. CRL. 2202/2024

BABITA CHOPRA

W/o Late Sh. Kamal Chopra

R/o 15/177, Pharma Apartment,

I.P. Extension, Delhi-110092

.....Petitioner

Through: Mr. Vineet Mehta and Mr.
Prakhar Sharma, Advocates

versus

1. **THE STATE (GNCT); DELHI**

Through SHO P.S. Laxmi Nagar, Delhi

Email: dhcprosecutiondelhipolice@gmail.com

2. **NITESH KHANNA**

S/o Late Sh. Narender Kishore Khanna

R/o I-276, Naraina Vihar,

New Delhi- 110028

WhatsApp: 9811811407

.....Respondents

Through: Mr. Amol Sinha, ASC (CRL)
with Mr. Kshitiz Garg, Mr.
Ashvini Kumar and Mr. Nitish
Dhawan, Advocates for the
State

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Petition filed under Article 226 of the Constitution of India, read with Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred*



to as “CrPC”) filed on behalf of **Petitioner/Babita Chopra** challenging the Order dated 04.06.2024, whereby Ld. MM allowed the Application under Section 156(3) CrPC and seeking quashing of FIR 197/2024 under Section 467/471 of the Indian penal code, 1860 (*hereinafter referred to as “IPC”*) dated 23.06.2024, P.S. Laxmi Nagar, Delhi, registered consequent thereto.

2. The **brief facts of the case** are that Late Sh. Narender Kishore Khanna, brother of the Petitioner/Babita Chopra, was married to Smt. Kiran Khanna on 15.02.1976 and a son, namely Nitesh Khanna (Respondent No. 2 herein), was born from the wedlock, on 29.06.1977. Due to matrimonial discord, Late Sh. Narender Kishore Khanna started living separately from his wife and son/Respondent No.2 since 17.12.1994 and thereafter, started residing with his mother and sister. A Divorce Petition bearing *HMA No. 186/1995* was filed by him, although the matter was reconciled. Respondent No. 2 again left Late Sh. Narender Kishore Khanna, on 25.03.2003.

3. After his wife left the matrimonial home, Late Sh. Narender Kishore Khanna suffered severe business losses and also met with a major accident. Despite these circumstances, his wife filed a false Complaint against him before the CAW Cell, which upon inquiry, was found to be false and closed. Thereafter, Late Sh. Narender Kishore Khanna continued to live with his mother and sister, who took care of him.

4. It is submitted that during his lifetime, Late Sh. Narender Kishore Khanna executed a registered **Will dated 29.04.2011**, duly registered on 04.05.2011 in the office of *Sub-Registrar VII, LM Bundh Office Complex, Shastri Nagar, Delhi*, vide Registration No. 1704, Book No. 3, Volume No. 1048, pages 130-131. Since his wife and son were living separately and had neglected him, Late Sh. Narender Kishore Khanna excluded them from all



his movable and immovable properties and *bequeathed the same in favour of his mother, Smt. Maheshwari Devi and his sister, Babita Chopra (Petitioner herein)*. Late Sh. Narender Kishore Khanna expired on 22.05.2013.

5. Thereafter, on 05.02.2014, Smt. Maheshwari Devi and the Petitioner filed ***Test Case No. 12/2014*** titled “*Smt. Maheshwari Devi & Anr. vs. State*” seeking Probate/Letters of Administration in respect of the Will dated 29.04.2011, before this Court.

6. Smt. Kiran Khanna and Respondent No.2 were arrayed as Respondents in the said Probate Petition, who filed their Written Statement on 01.07.2014. The matter has remained pending thereafter.

7. **Respondent No.2** filed **I.A. No. 12028/2014** under Section 45 of the Evidence Act seeking permission to examine a handwriting expert, alleging the Will to be forged. ***The Application was disposed of vide Order dated 05.12.2018, permitting the Respondents to lead expert evidence after conclusion of Petitioners’ evidence.***

8. During pendency of the Probate proceedings, Smt. Maheshwari Devi expired on 12.02.2018 and her legal heirs were brought on record. The **issues were framed vide order dated 15.05.2023**. The Petitioner has filed her evidence by way of affidavit and the matter is listed for Petitioner’s evidence on 25.07.2024.

9. Respondent No. 2 thereafter, filed ***I.A. No. 10749/2023 under Section 45 of the Evidence Act*** seeking summoning of records for comparison of signatures on the Will dated 29.04.2011 with signatures on a letter dated 07.05.2004 available with DDA. ***The Application was allowed vide Order dated 01.08.2023.*** Respondent No.2 appointed a private Handwriting



Expert, Mr. B.N. Srivastava, who submitted a **Report dated 10.12.2023** alleging mismatch of signatures.

10. It is submitted that the Expert's evidence has not been recorded in the Probate proceedings and the Report has no evidentiary value at this stage. Respondent No. 2, with the intent to harass and pressurize the Petitioner, misused the process of law and filed a false **Complaint under Section 200 CrPC along with an Application under Section 156(3) CrPC**, solely relying upon the private Expert opinion.

11. This Application was allowed *vide* Order dated 04.06.2024 by the Ld. MM, and direction was given for registration of FIR. Pursuant thereto, **FIR No. 197/2024 dated 23.06.2024** under Sections 467/471 IPC was registered at P.S. Laxmi Nagar.

12. Aggrieved by the Order dated 04.06.2024 and the consequent false and frivolous FIR, the Petitioner has filed the present Petition for quashing of FIR on the grounds that Ld. MM has failed to take into the consideration the fact that there is no conclusive evidence against the Petitioner on record, which could give rise to a grave suspicion against the Petitioner.

13. The Ld. MM failed to appreciate that the validity of the Will dated 29.04.2011 of Late Sh. Narender Kishore Khanna, is already *sub judice* in **Test Case No. 12/2014**, where the Will is required to be proved strictly in accordance with Section 68 of the Evidence Act through attesting witnesses. The Probate matter is still at the stage of Petitioner's evidence and there is no finding about the Will being invalid.

14. During inquiry, the I.O. verified that the Will is a registered document bearing signatures as well as thumb impressions of Late Sh. Narender



Kishore Khanna, to which there is no challenge. IO also recorded the statement of one of the attesting witnesses, who categorically confirmed execution of the Will by Late Sh. Narender Kishore Khanna in the presence of witnesses. The Will was presented for Registration by the testator himself and registered after due satisfaction regarding his free will, by the Sub-Registrar.

15. It is submitted that the Ld. MM failed to appreciate that Respondent No. 2 relied solely upon the opinion of a privately appointed Handwriting Expert. It is settled law that *Expert Opinion* is only advisory and not conclusive. Even otherwise, the signatures for comparison were taken from DDA records pertaining to the year 2004, whereas the Will is of the year 2011. The time gap of nearly seven years renders such comparison unreliable and vitiates the Expert opinion.

16. Reliance is also placed on Rattan Singh & Ors. vs. Nirmal Gill & Ors., (2021) 15 SCC 300, wherein it was held that allegations of forgery cannot be proved solely on Expert Opinion and such opinion must be corroborated by other evidence.

17. It is further submitted that the Report dated 10.12.2023 of the private Handwriting Expert is a managed and self-serving document obtained by Respondent No.2. The evidence of the private Handwriting Expert has not been recorded in the Probate proceedings and his Report has no evidentiary value. Reliance is placed on Gulzar Ali vs. State of H.P., (1998) 2 SCC 192, wherein the Apex Court held that expert witnesses have a natural tendency to support the party engaging them.

18. Reliance is placed on Arun Saxena & Anr. vs. Today Homes & Infrastructure Pvt. Ltd. & Ors., W.P.(Crl.) 1645/2013, decided on



23.08.2018, wherein this Court had held that the Magistrate is not bound to direct investigation in every case disclosing a cognizable offence.

19. In the case of Subhkaran Luharuka vs. State (NCT of Delhi), 2010 (170) DLT 516, this Court held that even where cognizable offence is disclosed, the Magistrate must consider the nature of allegations, gravity of offence, and necessity of police assistance before invoking Section 156(3) CrPC.

20. Reliance is also placed on M/s Skipper Beverages Pvt. Ltd. vs. State, 2001 (59) DRJ 129, it was held that Section 156(3) CrPC is to be invoked only where allegations are serious and evidence is beyond the reach of the complainant. In Mohd. Ibrahim & Ors. vs. State of Bihar & Anr., Crl. Appeal No. 1695/2009 (decided on 04.09.2009), the Hon'ble Supreme Court cautioned against giving criminal colour to purely civil disputes to harass or pressurize the parties.

21. Lastly, it is submitted that the Respondent No. 2 has not alleged any fact beyond his personal knowledge, requiring police investigation. All documents are within his possession, and if required, inquiry under Section 202 CrPC was sufficient. Invocation of Section 156(3) CrPC was wholly unwarranted.

22. *Hence, the present Petition is liable to be allowed.*

23. **A Counter-Affidavit has been filed on behalf of the Respondent No.2/Nitesh Khanna** where the contentions of the Petitioner have been vehemently opposed.

24. It is submitted that the averments in the Complaint of the Complainant make out a specific case against the accused persons. Reliance is placed on Indian Oil Corporation vs. NEPC India Ltd. and Others, 2006



(6) SCC 736 wherein it has held, “*For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.*”

25. Reliance is also placed on Iqbal Singh Marwah vs. Meenakshi Marwah, 2005 (4) SCC 370 wherein it has been held that pendency of civil case where the alleged will is subject matter of dispute, is no hindrance to launching of criminal prosecution qua the said alleged will.

26. It is submitted that the reasoning of the Ld. MM cannot be faulted in any manner as the Petitioner has not alleged, nor does the record show that the I.O. disputed the Handwriting Expert’s Report in the Status Report.

27. It is submitted that the case of Gulzar Ali vs. State of H.P., (supra) is inapplicable to the present case, as it involved competing Handwriting Expert Reports (one by a government expert for the prosecution and another by a private expert for the defence) along with other supporting evidence. In those facts, the Hon’ble Supreme Court disbelieved the defence Expert, noting the natural tendency of an Expert to support the party engaging him, and found the cumulative evidence to favour the prosecution.

28. In contrast, the present case involves no such competing evidence, and the Petitioner seeks to quash the FIR at the threshold, thereby frustrating the investigation itself.

29. Furthermore, the case of Arun Saxena & Another, (supra) does not assist the Petitioner, as in that case this Hon’ble Court directed registration of FIR after finding the allegations to be serious, despite the MM and ASJ



treating the dispute as civil. Conversely, the said judgment supports Respondent No. 2, as in the present case the police had refused to register the FIR for the reasons already stated.

30. It is submitted that Lalita Kumari vs. Govt of U.P., AIR 2014 SC 187 is the binding precedent and the Ld. Magistrate has rightly directed registration of FIR once a cognizable offence was disclosed.

31. The Petitioner has failed to specify any instance where Respondent No. 2 or his mother, Smt. Kiran Khanna, has either disputed or admitted in their pleadings before any Court or otherwise that the thumb impressions on the said Will belong to Late Sh. Narender Kishore Khanna. Further, there is no legal requirement that a handwriting expert's report must be conclusive for the registration of FIR, as already explained hereinabove. Furthermore, there is no requirement of conclusiveness of Handwriting Expert Report, for the purpose of registration of FIR.

32. It is submitted that the Petitioner's objection regarding comparison of signatures from 2004 with those on the Will dated 29.04.2011 is unfounded, since this Hon'ble Court *vide* Order dated 01.08.2023 in Test Case No. 12/2014, expressly permitted such comparison. The Petitioner did not oppose the said Application at the relevant time, and therefore, cannot now challenge the age of the specimen signatures. The objection is an afterthought and liable to be rejected.

33. It is further submitted that the Petitioner misled this Court in passing the Order dated 24.07.2024 that "*no coercive action shall be taken against the petitioner till the next date of hearing*". Reliance is placed on the case of Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and Ors., 2021 (19) SCC 401. It was observed that the High Court shall not and as such is



not justified in passing the Order of “*not to arrest and/or “no coercive steps”*” either during the investigation or till the investigation is completed and/or till the Final Report/Charge-Sheet is filed under Section 173 CrPC, in the quashing Petition under Section 482 CrPC and/or under Article 226 of the Constitution of India.

34. *On merits*, all the contentions made by the Petitioner are denied.

35. It is submitted that the said alleged Will had been laminated by the Petitioner and Late Smt. Maheshwari Devi and thereafter, filed before this Court in the Test Case, with the intention of hiding the forgery of the said document. Late Smt. Maheshwari Devi and Petitioner had not been appointed as Executors in the alleged Will dated 29.04.2011 and therefore, no Probate could be granted to them.

36. Late Sh. Narender Kishore Khanna had filed the Divorce petition dated 15.05.1995 under pressure and at the dictation of Late Smt. Maheshwari Devi and the Petitioner, containing false allegations of cruelty against Smt. Kiran Khanna, which he neither believed nor wished to file or pursue. Further allegation that Late Smt. Maheshwari Devi and Petitioner took care of Sh. Narender Kishore Khanna for the remainder of his life, are also stated to be incorrect. In fact, Late Sh. Narender Kishore Khanna had immense love and affection towards Respondent No.2.

37. It is submitted that Late Smt. Maheshwari Devi and the Petitioner concealed the fact that the deceased Sh. Narender Kishore Khanna who was a heart patient suffering from diabetes, had been under regular treatment. He was admitted to *Escorts Hospital* in 2008 and ultimately died of these ailments on 22.05.2013 at *Max Hospital, Indraprastha Extension, Delhi*.



38. It was further submitted that the deceased Sh. Narender Kishore Khanna owned property *No. A-1/70, Paschim Vihar, Delhi*, inherited under a Will dated 11.11.1974 executed by Smt. Vidyawati and duly registered on 08.01.1975. A *Letter of Administration* was granted in *Probate Case No. 213/88 vide judgment dated 29.10.1997*. He had applied for mutation and conversion of the said property to freehold before the DDA, but Defendant No. 1, Sh. Prem Nath Khanna, his brother, was opposing the same on false grounds and is illegally occupying the property.

39. Further, in the mutation and conversion proceedings, Sh. Narender Kishore Khanna had submitted his specimen signatures verified by Bank of India *vide* letter dated 09.07.2002 from his Bank Account No. 30302 (now 601210100030302), opened on 08.05.1998 and still in existence. However, Late Smt. Maheshwari Devi and the Petitioner have claimed ignorance of this Account and this Account was not disclosed as an asset, in the Probate Case.

40. Thus, it is submitted that the non-disclosure of property No. A-1/70, Paschim Vihar, Delhi and Bank of India account No. 601210100030302 as assets left by the deceased Sh. Narender Kishore Khanna, raises serious suspicion regarding the Probate sought in respect of the alleged Will. Other assets have also been deliberately concealed by Late Smt. Maheshwari Devi and the Petitioner to fraudulently misappropriate them, knowing the alleged Will to be forged and fabricated.

41. It is submitted that no Probate can be granted as the alleged Will does not bear the genuine signatures or thumb impression of Late Sh. Narender Kishore Khanna, and the same are forged. The forgery is evident as the Photograph affixed on the alleged Will, is an old photograph from around



May 2004, whereas the Will is claimed to have been executed and registered on 29.04.2011. The same photograph had earlier been submitted by the deceased to the DDA along with his specimen signatures in 2004. His Voter ID (issued on 01.01.2005) and PAN Card submitted in 2009 show him to be much older than the person depicted in the photograph on the alleged Will.

42. Further, due to chronic illness, the deceased appeared significantly older and frail by 2011. It is also submitted that the photograph pasted on the back of the alleged Will at the time of registration, is not of the deceased and that impersonation has occurred. The alleged attesting witnesses are acquaintances of Late Smt. Maheshwari Devi and the Petitioner, who have been planted to support the forged Will.

43. *Lastly*, it is submitted that in the present case apart from the sufficiency of averments regarding cognizable offence being committed, in the Complaint for the registration of the FIR, are supported by the Handwriting Expert Report.

44. *Hence, it is prayed that the present Petition is liable to be dismissed.*

45. The **Status Report has been filed on behalf of the Respondent/State** where the facts of the present case have been reiterated.

46. It is stated that on the basis of the Handwriting Expert's Report dated 10.12.2023, allegations of conspiracy, impersonation, and forgery were levelled against the Petitioner, the deceased Smt. Maheshwari Devi, and the alleged attesting witnesses, ***Sh. Lovely Arora*** and ***Sh. Kishan Kumar***

47. During investigation, a Notice under Section 91 CrPC was issued to the *Sub-Registrar VIII, Geeta Colony, Delhi*, and the certified copy of the Will was obtained and placed on record.



48. The Petitioner approached this Court seeking quashing of the FIR, and *vide* Order dated 24.07.2024, ***no coercive action*** was directed to be taken against her. On 21.09.2024, the Petitioner joined investigation and stated that the original Will is part of the judicial record of the pending Probate case.

49. During investigation, Lovely Arora, attesting witness was examined on 25.09.2024, who stated that Late Sh. Narender Kishore Khanna had signed all pages of the Will in his presence, at the office of Sub-Registrar. The investigation is still pending.

Submissions heard and record perused.

50. The present case arises out of a Probate dispute concerning the registered Will dated 29.04.2011 of Late Sh. Narender Kishore Khanna, which is the subject matter of *Test Case No. 12/2014* pending before this Court.

51. During the pendency of the said Probate proceedings, Respondent No. 2/Nitesh Khanna filed *CT Case No.242/2024* alleging forgery on the basis of a private Handwriting Expert's Report dated 10.12.2023. An Application under Section 156(3) CrPC, was filed which was allowed *vide* Order dated 04.06.2024 leading to the registration of FIR No. 197/2024 under ***Section 467/471 IPC***.

52. ***The core issue for determination is whether the Ld. MM was justified in directing registration of an FIR under Section 156(3) CrPC?***

53. Late Sh. Narender Kishore Khanna executed a registered Will dated 29.04.2011, which was duly registered on 04.05.2011 after compliance with statutory formalities. He expired on 22.05.2013. Thereafter, *Test Case No.*



12/2014 seeking Probate of the said Will, was filed on 05.02.2014 by the mother and sister (Petitioner herein) of the deceased.

54. The son (Respondent No.2 herein) of the Late Sh. Narender Kishore Khanna and the wife of the deceased, entered appearance and specifically alleged forgery of the Will in their Written Statement filed on 01.07.2014. ***Thus, it is clear that the issue of genuineness of the Will has been disputed by the Respondent since 2014.***

55. This question of whether the FIR can be registered in case where the challenge to the genuineness of the Will is pending consideration in Probate proceedings, was addressed in the case of Sardool Singh vs. Nasib Kaur, 1987 SCC (Cri) 672 wherein it was observed as under:

“2. A civil suit between the parties is pending wherein the contention of the respondent is that no will was executed whereas the contention of the appellants is that a will has been executed by the testator. A case for grant of probate is also pending in the court of learned District Judge, Rampur. The civil court is therefore seized of the question as regards the validity of the will. The matter is sub judice in the aforesaid two cases in civil courts. At this juncture the respondent cannot therefore be permitted to institute a criminal prosecution on the allegation that the will is a forged one. That question will have to be decided by the civil court after recording the evidence and hearing the parties in accordance with law. It would not be proper to permit the respondent to prosecute the appellants on this allegation when the validity of the will is being tested before a civil court. We, therefore, allow the appeal, set aside the order of the High Court, and quash the criminal proceedings pending in the Court of the Judicial Magistrate, First Class, Chandigarh in the case entitled Smt Nasib Kaur v. Sardool Singh. This will not come in the way of instituting appropriate proceedings in future in case the civil court comes to the conclusion that the will is a forged one. We of course refrain from expressing any opinion as regards genuineness or otherwise of the Will in question as there is no occasion to do so and the question is wide open before the lower courts.”



56. However, this aspect was again considered by the Apex Court in Kamaladevi Agarwal vs. State of West Bengal, (2002) 1 SCC 555, wherein reference was made to Sardool Singh, (supra) but it was distinguished by observing that ***the nature and scope of civil and criminal proceedings, as well as the standard of proof applicable thereto, are fundamentally different and distinct***. The Court rejected the contention that the pendency of a civil suit before the High Court disentitled the Magistrate from proceeding with the criminal case, either as a matter of law or on the grounds of propriety. It was held that criminal proceedings must be conducted strictly in accordance with the procedure prescribed under CrPC, and ***the pendency of a civil action in a different court even though higher in status and authority, cannot be made a basis for quashing of the proceedings***.

57. Furthermore, in the case of Syed Askari Haid Ali Augustine Iman and Another vs. State (Delhi Administration) and Another, (2009) 5 SCC 528, similar question of the FIR and the Probate proceedings considering the validity of the Will, came into consideration. While advertent to Sardool Singh, (supra), the Court observed that *no binding ratio could be culled out from the said decision, as the reasons for issuance of such directions or observations were not discernible therefrom*. ***The Court held that no straightjacket formula can be applied and that the exercise of jurisdiction to quash criminal proceedings is discretionary and must depend on the cumulative facts of each case***. The FIR was not quashed on its own facts by observing that the FIR was registered in 2002, which is much prior to the institution of civil litigation and because aside from challenge to the



genuineness of the Will, *there were also allegations of trespass under Section 448 and of cheating*. Even if it was found that the offence of forgery was not made out even then the accused could be penalized for their act of trespass and therefore, it was held that in the facts of that Case, discretionary relief of quashing of FIR, could not be granted. Moreover, the trial in the civil litigation, had not progressed since 2003. In addition, the Will had not even been sent to the Hand Writing Expert for his opinion to ascertain the genuineness of Will. The Charge-Sheet already stood filed in the FIR and the cognizance was taken. In the totality of the circumstances, discretion of quashing of the FIR under Article 136 of the Constitution of India, was denied.

58. The law on the permissibility of parallel civil and criminal proceedings is now well settled and has been reiterated by the Apex Court in recent case of Kathyayini vs. Sidharth P.S. Reddy & Ors., 2025 INSC 818, order of the High Court which had quashed criminal proceedings involving allegations of forgery, cheating and criminal conspiracy on the ground that civil proceedings for partition and declaration were pending between the parties, was set aside. The Court observed that it would be “*unwise to rely on unverified testimony*” to ascertain the genuineness of a document and held that the High Court erred in heavily relying on such material to conclude that no offence was made out. Furthermore, it cautioned that such an approach amounts to prematurely evaluating evidence, which is impermissible at the threshold. Where allegations disclose that disputed documents were used to secure pecuniary advantage, it is necessary that genuineness of both the documents is put to trial. It was emphasised that the



High Court, while exercising jurisdiction to quash criminal proceedings, cannot conduct a mini-trial or return findings on disputed questions of fact.

59. Similarly, in the most recent decision, the Apex Court in C.S. Prasad vs. C. Satyakumar and Ors., 2026 INSC 39 while referring to Neeharika Infrastructure, (supra) and Kathyayini, (supra), reaffirmed that adjudication in civil matters and criminal prosecution proceed on different principles. It was observed that it is a settled principle of criminal jurisprudence that civil liability and criminal liability may arise from the same set of facts and that the pendency or conclusion of civil proceedings does not bar prosecution where the ingredients of a criminal offence are disclosed. Further, it was observed as under:

“ 27. ... The decree passed by the Civil Court neither records findings on criminal intent nor on the existence of offences such as forgery, cheating, or use of forged documents. Therefore, civil adjudication cannot always be treated as determinative of criminal culpability at the stage of quashment. Moreover, in the case at hand, the civil proceedings have not attained finality.

28. Adjudication of forgery, cheating or use of forged documents in relation to a settlement deed will always carry a civil element. Therefore, there cannot be any general proposition that whenever dispute involves a civil element, a criminal proceeding cannot go on. Criminal liability must be examined independently. Respondent Nos. 1 to 3 were entitled to acquittal only upon failure of proof in the trial and not at the threshold jurisdiction under Section 482 of the Cr.PC. To permit quashing on the sole ground of a civil suit would encourage unscrupulous litigants to defeat criminal prosecution by instituting civil proceedings.

*...
....On perusal of the above observations of the High Court, we find that the High Court has erred in law by embarking upon an inquiry with regard to the conduct of the appellant and credibility or otherwise of the allegations in the complaint and the FIR. Delay in filing a complaint, by itself, is never a ground for quashing criminal proceedings at the threshold. Whether the delay stands satisfactorily explained or whether it impacts the credibility of the prosecution, is*



a matter of appreciation of evidence before the Trial Court and not for summary determination by the High Court under Section 482 of the Cr.P.C.”

60. *To sum up*, what emerges is that it is a settled position of law that the ingredients required to be established in civil proceedings and criminal proceedings, even when arising from the same transaction, operate in distinct spheres. In civil proceedings, the court is primarily concerned with the validity, enforceability of a document, to be tested on the touchstone of preponderance of probabilities. *In contrast*, criminal law is attracted only where the allegations disclose the requisite *mens rea* and the commission of an offence beyond the civil consequences of the act. The threshold in criminal law is necessarily higher, as the court is required to examine whether the act complained of was accompanied by dishonest intent since the inception.

61. Forgery, fabrication of documents and their use for wrongful gain are therefore, not mere matters of civil invalidity but constitute independent offences under the criminal law. Hence, civil adjudication regarding the validity of a document cannot preclude criminal prosecution where the ingredients of offences (such as forgery herein) are *prima facie* disclosed, as the two remedies differ in their objective, scope and standard of proof.

62. Herein, it is also pertinent to refer to State of Haryana vs. Bhajan Lal, 1992 Supp (1) SCC 335 where the Apex Court considered in detail the scope of powers of the High Courts under Section 482 CrPC and/or Article 226 of the Constitution of India to quash the FIR and held that the High Court should not embark upon an inquiry into the merits and demerits of the



allegations and quash the proceedings without allowing the investigating agency to complete its task.

63. In furtherance, the Apex Court in Neeharika Infrastructure, (supra) cautioned that courts must not stifle legitimate investigation at the threshold and that *quashing should be an exception, exercised sparingly, only where the complaint or FIR does not disclose the commission of any cognizable offence*. The Court had issued the following *directions to the High Courts to be kept in mind while exercising the power under Section 482 CrPC*:

“Conclusions:

33. In view of the above and for the reasons stated above, our final conclusions on the principal/core issue, whether the High Court would be justified in passing an interim order of stay of investigation and/or “no coercive steps to be adopted”, during the pendency of the quashing petition under Section 482 CrPC and/or under Article 226 of the Constitution of India and in what circumstances and whether the High Court would be justified in passing the order of not to arrest the accused or “no coercive steps to be adopted” during the investigation or till the final report/charge-sheet is filed under Section 173 CrPC, while dismissing/disposing of/not entertaining/not quashing the criminal proceedings/complaint/FIR in exercise of powers under Section 482CrPC and/or under Article 226 of the Constitution of India, our final conclusions are as under:

33.1. Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into a cognizable offence.

33.2. Courts would not thwart any investigation into the cognizable offences.

33.3. It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on.



33.4. The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the “rarest of rare cases” (not to be confused with the formation in the context of death penalty).

33.5. While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint.

33.6. Criminal proceedings ought not to be scuttled at the initial stage.

33.7. Quashing of a complaint/FIR should be an exception rather than an ordinary rule.

...

33.12. The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure.

...

33.15. When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under Section 482CrPC, only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR.”

64. Applying the said principle to the present case, the Probate proceedings had been initiated by the Petitioners *vide Test Case No.12/2014*. Respondent No.2/Complainant has been contesting the genuineness of the



Will since the Written Statement was filed in 2014 itself. Thereafter, pursuant to the Order dated 01.08.2023 permitting comparison of signatures, Respondent No.2 got a private Handwriting Expert's Report dated 10.12.2023, following his Application under Section 45 Evidence Act was filed in 2014, which was allowed.

65. The registration of the FIR in the year 2024 was pursuant to the directions of the Ld. MM, who relied on this Expert report and observed that there were allegations that the accused persons, in conspiracy with each other, had prepared forged will and got the same registered. Furthermore, it was rightly observed that a detailed police investigation was required for unearthing the truth of the allegations made by the Complainant, including the collection and examination of forged will and the admitted signatures of the father of the Complainant. *Since, the facts narrated disclosed prima facie commission of a cognizable offence, FIR was directed to be registered.*

66. Thus, merely because the issue of validity of the Will is subject matter of civil and probate proceedings, this by itself, cannot be a ground to stall the criminal process at the threshold, particularly when the allegations disclose the ingredients of cognizable offences requiring investigation. No mini trial can be conducted to ascertain the correctness or otherwise of the Handwriting Expert's opinion, nor can it return any finding on the genuineness of the Will. Those issues are matters of investigation to be tested during the course of criminal investigation. To accept the contention of the Petitioner, would tantamount to considering the FIR as an encyclopaedia of all the relevant evidence, as observed in the case of Neeharika Infrastructure, (supra). In fact, FIR is only the commencement



point and if the allegations are not substantiated, it would be so concluded after investigations.

67. The submission of the Petitioner that the dispute is purely civil in nature, cannot be accepted at this stage. While in the probate proceedings, the genuineness of the Will has to be tested on the anvil of Section 68 Indian Succession Act, in accordance with Section 65 Indian evidence Act, and even if signatures are found to be genuine, it may still be invalidated; the allegations of forgery and use of a forged document as genuine, are distinct offences under the Penal Code and if established, attract penal consequences independent of the outcome of the probate proceedings.

68. Lastly, in this regard, reference be also made to M.S. Sheriff & Anr. vs. State of Madras & Ors., AIR 1954 SC 397, referred in Syed Askari Haid Ali Augustine Iman, (supra) wherein the Apex Court held that “*as between the civil and the criminal proceedings we are of the opinion that the criminal matters should be given precedence*”, observing that “*a civil suit often drags on for years and it is undesirable that a criminal prosecution should wait till everybody concerned has forgotten all about the crime. The public interests demand that criminal justice should be swift and sure; that the guilty should be punished while the events are still fresh in the public mind and that the innocent should be absolved as early as is consistent with a fair and impartial trial. Another reason is that it is undesirable to let things glide till memories have grown too dim to trust.*”

Conclusion:

69. In light of the above discussion, it is held that there exists no ground for quashing the FIR at this initial stage. **There is no merit in the present Petition, which is hereby, dismissed.**

2026:DHC:341



70. The pending Applications also stand disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

JANUARY 15, 2026/RS