

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
(CRIMINAL REVISIONAL JURISDICTION)

PRESENT:

THE HON'BLE DR. JUSTICE AJOY KUMAR MUKHERJEE

CRR 339 of 2024

**Pradip Agarwal & Anr.
Vs.
The State of West Bengal & Anr.**

For the Petitioner	:	Mr. Kunaljit Bhattacharjee Mr. Sandeep Dutta Mr. Alok Sah
For the State	:	Mr. Aditi Shankar Chakraborty Mr. Abhijit Sarkar
For the Opposite Party No.2	:	Mr. Bhaskar Roy Mahashaya Mr. Niranjana Roy
Heard on	:	04.11.2025
Judgment on	:	29.01.2026

Ajoy Kumar Mukherjee, J.

1. The petitioners herein are aggrieved with the proceeding being GR Case no. 4210 of 2024 under section 465/467/468 /471 /420 and 120B of the Indian Penal Code which is presently pending before learned Chief Judicial Magistrate, Jalpaiguri.

2. Opposite party no.2 herein filed a written complaint on 25th August, 2024 alleging *inter alia* that the petitioners herein along with other co accused have jointly entered into criminal conspiracy with each other and

for the purpose of their wrongful gain, have jointly cheated the OP No.2 and his other brothers and sisters who being the descendants of Sukeshari Ray became rightful owners of the property left by their grandfather Gegaru Singh Das and Kakaru Singh Das. It has been alleged further that one of the co accused Shankar Chourasia have obtained a forged deed being no. 3022 dated 07th April 1963 and on the basis of said forged deed, the accused persons are also causing wrongful loss to the complainant and his brothers and sisters. On the basis of said complaint aforesaid investigation started.

3. Mr. Bhattacharya learned Counsel for the petitioners submits that the allegations levelled against the petitioners in the written complaint is frivolous harassive and an attempt to criminalize civil dispute. The petitioners case is that one Kekaru Singh Das and Gegaru Singh Das both sons of Chandra Singh Das were admittedly recorded tenants in respect of landed property, measuring 23.61 acres within Mouza Debagram. According to petitioners said owners executed a registered deed of sale in favour of one Sankar Chourasia being aforesaid deed no. 3022 dated 7th April 1963 and transferred 5 acres 66 decimal of land out of total 23.61 acres of land. Said Shankar after purchase duly recorded his name as owner in the land records and thereafter on the basis of Shankar's application the appropriate authority allowed his prayer for conversion from "*Danga*" and "*Dahala*" to "*Industry*". Thereafter one M/S Joy Matadi Enterprise had availed credit facility from IDBI Bank and said Shankar Chourasia became the guarantor of the said loan and to secure the loan Shankar had mortgaged his said purchased land. Due to creation of certain disturbances regarding Shankars peaceful possession in the said property, he filed TS no. 96 of 2012 before

Civil Judge (Senior Division) Jalpaiguri. Thereafter some of the defendants in T.S 96 of 2012 filed a suit being T.S 125 of 2012 before the appropriate Civil Court against Shankar Chourasia and 5 others and in the said suit the main ground of challenge, taken by the plaintiffs was that the deed No.3022 dated 07.04.1963 is a forged deed and not valid and hence any execution of Title deed by Shankar transferring said property is not valid. By a judgment dated 30th January, 2021, the trial court was pleased to dismiss the said suit on contest. Against the said judgment dated 30th January, 2021, the plaintiffs preferred appeal before the learned District Judge, Jalpaiguri being TA no. 6 of 2021, but said appeal was dismissed for default. The appellants have preferred an application for restoration of the appeal, which is pending for adjudication.

4. In the meantime Mrs. Jay Matadi Enterprise who had taken loan was unable to repay the said loan and as a result recovery proceedings were initiated by the bank against the borrower as well as against the guarantor Shankar Chourasia.

5. Further case of the petitioners is that manager of IDBI bank by a letter dated 23rd November, 2011 addressed to additional District Sub Registrar, Jalpaiguri has requested to furnish information whether the certified copy of the said deed can be obtained and in reply it was informed that page no. 18-20 of volume 31 is badly damaged and pages are rotten due to the devastating flood of 1968 in Jalpaiguri Town.

6. Since neither said Mrs. Jay Matadi Enterprise nor Shankar Chourasia was able to repay the loan to IDBI Bank the petitioners along with some others had repaid the outstanding loan by way of one time settlement to the

bank and after the loan was completely paid off, the petitioners purchased some area of land from Shankar Chourasia on 16th October, and 17th October, 2023. Shankar had also sold some other portion from his purchased property to other co accused.

7. According to the petitioners, the OP party no.2 has abused the process of the law by lodging the impugned complaint against the petitioners by suppressing material information. The petitioners therefore submits that since learned Civil Judge (senior division) Jalpaiguri has upheld the validity of the Title deed no. 3022 dated 7th April, 1963 in T.S. 125 of 2012 and no appellate court has set aside the finding of the trial court, therefore the validity of the said title deed cannot be questioned in a criminal proceeding. The OP no. 2 by challenging the validity of said deed dated 07.04.1963 has himself accepted that the dispute is of a civil nature and opposite party no.2 tried to convert a purely civil dispute into a criminal proceeding. Thus though the plaintiffs of TS no. 125 of 2022 has alleged that the deed dated 07th April, 1964 is collusive and fraudulent deed but the plaintiffs have failed to prove the same. He further submits that once the plaintiff in the said suit had realised that they have no chance to succeed in the said T.S. no. 125 of 2012, they have set up the OP no. 2 herein to start a criminal proceeding against the petitioners, in order to coerce the petitioner for some unlawful gain.

8. Mr. Bhattacharjee in this context further submits that even assuming but not admitting that the Title Deed dated 7th April, 1964 is a forged deed, the petitioners were not parties to the said deed. Co accused Shankar Chourasia was the purchaser and if any forgery was committed, the

petitioners could not be made accused for the same. The petitioners have purchased part of the property against an one time settlement and had purchased the property which was mortgaged with IDBI bank for valuable consideration. The validity and genuinity of the said deeds have not been questioned by the opposite party no.2. Moreover the IDBI Bank had given loan to one Mrs. Jay Matadi Enterprise by depositing the original title deed being no. 3022 dated 07.04.1963, wherefrom also it is evident that the said deed is genuine because no bank will give loan without conducting a thorough title investigation regarding the genuinity of the ownership of a mortgager before sanctioning a loan. Therefore, allowing the instant criminal proceeding to any further would be an abuse of the process of the law and the ends of justice require that the proceeding is to be quashed.

9. Mr. Roy Mahashay appearing on behalf of the opposite party opposed the prayer made by the petitioners. The defecto complainant's case is that the complainant enquired in the registry office and found that there was no existence of such sale deed no. 3022 dated 07.04.1963, which was allegedly executed by Gegaru Singh Das and Kekaru Singh Das in favour of Shagnar Chourasia. The complainant obtained certified copy of the sale deed no. 3022 for the year 1963, from the office of District Sub Registrar and it was found that said deed was not executed by Gegaru or Kekaru in favour of Shankar Chourasia in respect of said plot of land. He further submits that in the T.S. no. 96 of 2012 filed by aforesaid Shankar Chourasia, there was no specific or definite prayer that sale deed no. 3022 dated 07.04.1963 is genuine and enforceable in the eye of law. On the other hand there is no specific prayer in TS no. 125 of 2012 also that sale deed no. 3022 is forged

and inoperative in the eye of law and in fact learned Civil Judge had not decided any issue as to whether aforesaid sale deed no. 3022 was forged or not in his judgment dated 31.01.2021.

10. Furthermore the opposite party no.2 was not the party in TS 96 of 2012 or in TS 125 of 2012. He further submits that the fraudulent act using of forged seal of registry office with forged signature of the public officer in a purported public document is required to be investigated by the police authority to reveal the truth. The fraudulent act adopted by the petitioners and involvement of the persons who are involved in the preparation of the doctored document is required to be revealed before the competent court of law and for that purpose a thorough investigation is badly needed.

11. He further submits that purported deed being no. 3022 dated 07.04.1963 was not filed by the petitioner in support of his case and it further appears that the aforesaid date of execution of the deed dated 07.04.1963 was a Sunday. Moreover Khola singh Roy who happens to be the brother of Gegru Roy and Kekaru Roy was found to be the witness of the purported deed no. 3022 but his signature has been mismatched with the signature appearing in admitted deed no. 7235 for the year 1965. The opposite party herein has collected the copy of the actual registered deed no. 3022 for the year 1963 from the registry office, wherefrom it is found that neither complainant's predecessor was the vendor nor Shankar Chourasia was the vendee in the said actual deed and the land in connection with the said real deed situates in different Mouza.

12. Moreover said forged deed has been used as genuine and loan was obtained from Bank keeping it as co-lateral security. Said loan remained

outstanding and not liquidated and the proceeding before Debt Recovery Tribunal has also not been withdrawn by Bank. So claim of non-availability of the documents from the registry office or alleged letter of endorsement by the registry office in response to the alleged letter of the bank is suspicious and the same might have also obtained fraudulently. Therefore, this is not a fit case where the proceeding can be quashed invoking this courts jurisdiction under section 482 of the Cr.P.C and as such the instant application is liable to be dismissed.

13. I have considered submission made by both the parties.

14. The allegation levelled against the present petitioners are under sections 465/467/468/471/420 and 120B of the Indian Penal Code. The relevant portion in the FIR in connection with the present petitioners who are FIR named accused no. 5 to 6 runs as follows:

“The aforesaid fictitious and forged Deed annexed with this F.I.R which examine thoroughly, it will seen that the Seal of the Office was found to be forged, doctored and not match with the Seal which was used at that time of alleged execution of the Deed. Said Sankar Chaurasia along with the purchasers of the Plot of land are main conspirators to grab the land of me and my brothers and sisters through a forged Deed which is not genuine one but knowing fully well about the forged Deed being No. 3022 dated – 07/04/1963 all the persons used the same as genuine and made a statement before the Public Authority and most fraudulently transferred the lands among the persons named above which is absolutely made for wrongful gain for their own with a view to wrongful loss to us.”

15. During investigation form the statement of the witnesses the name of the petitioners transpired as conspirator along with Sankar Chaurasia. Complainants specific case is that Deed no. 3022 for the year 1963 has got no relation with Kekura Singh Das or Gegaru Singh Das as vendor or Sankar Chaurasia as purchaser and even the land mentioned in the actual deed is also different. His further case is that Khola Singh Roy who has been found in the purported deed as a witness, his purported signature also

differs and mismatched with his admitted signature appearing in deed no. 3275 for the year 1965. His further contention is 07.04.1963 was a Sunday and as such the deed cannot be registered on that day. The complainant/opposite party no. 2 herein was also not a party in Title Suit no. 96 of 2012 or Title Suit no. 125 of 2012. Complainants specific case is that during pendency of the SRFAESI proceeding, the petitioner and the aforesaid Sankar Chousari entered into a conspiracy and had executed several title deeds showing the aforesaid deed as mother deed being no. 3022 dated 1963, knowing well about the non-existence of said forged deed and they have also produced the same before different authorities as genuine in order to make wrongful gain.

16. However in the present context learned counsel for the petitioners Mr. Bhattacharjee in support of the prayer for quashing has heavily relied upon the contested dismissal order passed by the court below in Title Suit no. 125 of 2012 and contended that the other heirs of original owners have failed to prove that the deed for the years 1963 is a forged deed and his specific contention is that the dispute is purely civil in nature and that the petitioners are the *bonafide* purchaser for value and since the question about genuineness of the said deed being no. 3022 has already been adjudicated by a competent civil court, the continuance of the instant proceeding over the self-same allegation of forgery in connection with said deed, will be mere abuse of the process of the court,

17. I have gone through the copy of judgment passed in Title Suit no. 125 of 2012 as collected by investigating agency and has made part of the case diary. It appears therefrom that while disposing said suit the trial court has

framed issue no. 12 as to whether original title deed being no. I-3022 dated 07.04.1963 is valid deed and binding upon the plaintiff or not. But in his finding he had taken up conjointly all the 15 issues i.e. issue no. 1 to 15 and no specific observation has been made by him as to whether the said deed no. I-3022 is a valid deed or a forged deed but he dismissed the said suit on different considerations. Certified copy of alleged real deed no. 3022 dated 07.04.1963 is marked as Exhibit-7 in the said suit and the court observed that he found that Exhibit-7 has no nexus with the suit property or that the parties of the deed are the predecessor of the plaintiff and therefore he held that matter of Exhibit-7 are shrouded in mystery and since the said certified copy of deed is absolutely extraneous to the subject matter of the suit, it is not binding upon them. However what leads the trial court to dismiss the Title Suit no. 125 of 2012 is appearing from the observation which may be reproduced below:-

"I cannot be possibly be unmindful of the fact that the plaintiffs never averred in the plaint that the deed was absolutely extraneous to the subject matter of the suit and as such it is not binding upon them. Rather they have claimed that their predecessors have not effected such transfer and the defendant no. 1 has procured the same in a collusive manner, fraudulently. They have not been able to prove such factual aspects. Things could have been otherwise had they asked defendant no. 3 to produce the original of the deed which is allegedly lying in its custody. That has not been done. Naturally, the questions relating to the Exhibit-7 and for that matter the prayer of the plaintiffs remain unanswered.

Adding insult to injury the admissibility of exhibit-7 is also not beyond question. Being a certified copy of a private document it essentially falls within the category of secondary evidence. Section 65 and 676 of the Evidence Act lays down the circumstances in which such secondary evidence can be admitted into evidence. Plaintiff have not taken any steps to comply such legal pre-requisites before attempting to prove the Exhibit-7. This court has not dispensed with such pre-requisites. In such circumstances, law does not permit the Exhibit- 7 to be legally admitted into evidence. Naturally, the question of declaring that the plaintiffs are not bound by the deed or that the defendant no. 1 got no right, title, interest and possession thereby cannot be granted.

It is clear from the foregoing discussions that the plaintiffs are not entitled to get any relief as sought for.

Thus it is clear that the plaintiff has failed to prove the bundle of facts which constitute the cause of action and in absence of such cause of action the suit can not be termed as maintainable. It is clear from the forgoing deliberations that the plaintiffs have failed to prove issue Nos. 1, 3, 8, 14 and 15. Thus, issue Nos 1, 3, 8, 14 and 15 are decided against the plaintiffs. Issue No. 4, 5, 6, 11, 12 and 13 are decided accordingly against the plaintiffs though issue no. 2, 7, 9 and 10 are decided in their favour.”

18. Therefore from the aforesaid discussion it is quite clear that no competent civil court has yet come to a conclusion about the genuineness of the aforesaid deed being no. I-3022 dated 07.04.1963.

19. Needless to reiterate that it is established principle of law as deduced from catena of decisions that while considering the prayer for quashing FIR under section 482 of Cr.P.C, the High court would be entitled to only examine the allegations made in the FIR and would not be entitled to appreciate by way of shifting the materials collected during investigation, including statement recorded under section 161 of the Code. Exercise of such power would depend upon the fact and circumstances of each case but with the sole purpose to prevent abuse of the process of any court or other wise to secure the ends of justice. Unless the prosecution is shown to be illegitimate so as to result in an abuse of the process of law, it would not be proper to scuttle it. At this stage the allegations levelled against the petitioner in the complaint will have to be accepted on the face of it and the truth or falsity of it would not be gone into by the court at this stage and the only requirement is to see whether continuance of the proceeding would be a total abuse of the process of the court. In the instant case on a careful reading of the materials available in the record and in the case diary, it cannot be said that the complaint does not disclose the commission of an any cognizable offence by the petitioners or the allegation of forgery is

absent. Now whether such allegations are correct or not has to be decided but simply because the civil court has dismissed a suit filed by other heirs of original owner on different considerations, that does not by itself cloth the court to come to a conclusion that civil remedy is only remedy and the initiation of the criminal proceeding in any manner will be abuse of the process of court, and therefore it calls for exercising inherent power of the High Court under section 482 Cr. P.C for quashing such proceedings.

20. Therefore when the materials relied upon by the complainant are required to be investigated and proved, no inference can be drawn on the basis of submissions made by the petitioners to conclude the complaint to be unacceptable against the petitioners. Therefore, I am of the view that the FIR in question should be fully investigated and thereafter further legal consequences as may be warranted should be allowed to take effect. However it is directed that the investigation should be concluded at an earliest date, since it is pending for a considerable period of time and thereafter steps in accordance with law will follow.

21. In view of above discussion, I do not find any merit in the instant application which is liable to be dismissed.

22. CRR 339 of 2024 thus stands dismissed.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, on priority basis on compliance of all usual formalities.

(DR. AJOY KUMAR MUKHERJEE, J.)