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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\# **CNR No. DLHC012317192018**

\+ **CRL.M.C. 6082/2018 and CRL.M.A. 9123/2026**

HUKAM SINGH ......Petitioner

Through: Mr. Saroj Kumar Jha, Advocate.

versus

STATE NCT OF DELHI & ORS. ......Respondents

Through: Ms. Shubhi Gupta, APP for State

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% 06.08.2026

1. By way of the present petition, the petitioner seeks to challenge the order dated 06.06.2018 passed by learned ASJ (North-East), Karkardooma Courts, Delhi ("**Impugned Order**"), whereby, the revision filed by the petitioner has been dismissed against the discharge of the respondents.

2. The petitioner alleged that he had purchased one property measuring 7x20 ft. bearing shop No.8 out of property No. D-1 situated at Abadi of Chand Bagh Main Road, Karawal Nagar, Delhi forming part of Khasra No.135/85("**Said Property**") from the proposed accused namely, Gulab Singh on 16.04.1993. It was his case that the petitioner claimed to have taken the physical possession of the shop. He, however, in the year 2006 found that the officials of the MCD had demolished the said property. It is his contention that the respondents-accused did not disclose the correct fact

at the time of execution of sale documents that the said property did not belong to them.

3. It appears that the petitioner had filed a complaint case alleging offence under Sections 420, 468 and 471 of the Indian Penal Code, 1860 (‘**IPC’**). The learned MM ordered investigation and thereupon FIR came to be registered.

4. *Vide* order dated 14.07.2017 passed by the learned CMM/NE/KKD/ Delhi, the learned Magistrate discharged the accused as it observed that if the complainant-petitioner enjoyed uninterrupted possession for 13 years without knowing the land was government property, the accused who held it for comparable or much shorter periods, were equally unaware. Further, the Magistrate observed that non-mutation of land records does not prove fraudulent intent. The relevant paras of the dated 14.07.2017 discharging the respondent nos. 2 to 4 are extracted as under: -

> *“Merely on the basis of the fact that the accused persons did not apply for mutation of the land it cannot be presumed that, they were aware of the proceedings by which the property in question vested in Gram Sabha in the year 1980. If such inference is drawn, then even, the complainant despite having purchased the property in the year 1993 never applied for mutation of the property till 2006 and if the complainant enjoyed the possession of the property/ shop for 13 years without having knowledge that it is Gram Sabha land, then even, accused persons may have enjoyed the property without such knowledge. It may be noted that Rajesh Aggarwal had purchased 300 sq. yards in the year 1990 out of which he has sold two shops to Gulab Singh in the year 1993 and Gulab Singh further sold one shop to the complainant a day after on 16.04.1993. Thus, Rajesh Aggarwal remained owner of property for about three years and Gulab Singh for only one day, as compared to thirteen years of possession of complainant and if the complainant says that he had no knowledge about the fact that the land was vested in Gram Sabha, then even the said two accused persons are also sailing in the same boat and the court cannot presume, in absence of any evidence, that they were aware of the fact that the land was vested in Gram Sabha. Therefore, in the opinion of the court accused Rajesh Aggarwal and Gulab Chand are similarly placed*

as the complainant and they cannot be charged for offence of cheating.

Coming to accused Pradeep Tandon, even the documents in his favor are of 1983 i.e. after the vesting of the land in Gram Sabha and he remained in possession till 1990 i.e. fourteen years before selling the property to Rajesh Aggarwal. Thus, he is also similarly situated as the complainant and two previous owners namely Rajesh Aggarwal and Gulab in possession of the property/one shop and enjoyed the same for his benefit and it was in the year 2006 when the MCD demolished front portion of the shop, then complainant came to know that property in question is government land."

5. The Revisional Court in the Impugned order dated 06.06.2018 observed that purchaser has a duty to verify property title through reasonable diligence and failure to do so bars his claims of fraud or deception. The relevant para nos. 14-17 has rendered following findings: -

"14. It is clear position in law that purchaser has to be cautious enough when he purchases some property. The duty is cast upon purchaser to enquire about title of the seller.

15. The petitioner himself is an Advocate. It cannot be that he did not have any means to find out the actual status of the land on which the shop was situated. Being an Advocate, it was expected of him that he would precautions before purchasing the shop.

16. Learned CMM is correct in taking the view that as petitioner was of actual status of land, accused were also unaware of the actual position.

17. Thirteen years is a long period during which any prudent person would have come to know about actual status of a land which he had purchased. Being a legal professional, it was all the more convenient for petitioner to have discovered the said fact. If petitioner has failed to do the needful, the petitioner must suffer. It is settled law that if a fraud can be detected through reasonable precautions, then there is no fraud. In the present case also, petitioner could have easily found out whether the land was Govt. is also to be noted that petitioner did not make any allegations for long period of thirteen years. He started levelling allegations only when the MCD demolished the shop. This shows that there was no inducement or deception on the part of accused. As petitioner failed in his duties, no case is made out for framing any charge."

6. This Court in ***Anudeep Singh Chauhan vs. State Govt. Of NCT of***

Delhi[1], concluded by observing that the allegations must explicitly disclose deception practiced upon the complainant at the outset, resulting in a fraudulent inducement. In absence of a clear allegation, a mere subsequent breach cannot give rise to criminal liability and continuation of such proceedings would amount to an abuse of the process of the Court. The relevant paras nos. 14-15 & 19-20 are extracted as under: -

> "*14. Section 420 of IPC deals with the offence of cheating and dishonestly inducing delivery of property.* ***<u>For its application, it is not enough to allege a mere breach of promise or non-performance of a contractual obligation</u>****. Thus, to attract the offence of cheating punishable under section 420 IPC attributed to the petitioner, it was necessary to state specific facts in the FIR/complaint showing that the petitioner had, by deceiving the complainant, fraudulently and dishonestly cheated the complainant and induced him to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security.*
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> *15. There must be, therefore,* ***<u>clear and specific averments showing that the accused, from the very inception, had a dishonest intention to deceive the complainant and, by such deception, fraudulently and dishonestly induced the complainant to deliver property, or to make, alter, or destroy a valuable security or any signed or sealed document capable of being converted into a valuable security.</u>*** *Each of these elements—dishonest intention at inception, deception, and resultant inducement—is an essential ingredient of the offence and cannot be presumed or inferred from vague or general allegations.*
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> ***
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> *19. Permitting such proceedings to continue would serve no purpose in criminal law.* ***<u>On the contrary, it would result in subjecting the petitioner to undue harassment, humiliation, and avoidable hardship. It would also amount to permitting the State's coercive machinery to be misused at the instance of a private complainant for exerting pressure and securing extraneous objectives.</u>*** *Such misuse strikes at the very foundation of fair administration of justice and cannot be countenanced by this Court.*
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> *20.* ***<u>Criminal law is intended to uphold public order and punish genuine</u>***

[1] 2025: DHC :7322.

__offenders, not to settle personal or commercial disputes that fall squarely within the domain of civil remedies.__ Continuation of the present proceedings would thus not only defeat the ends of justice but would also lead to the unwarranted clogging of the criminal justice system with litigation lacking any substratum of criminality."

(Emphasis Supplied)

7. The Supreme Court in the case of ***Anukul Singh v. State of U.P.***[2], has observed that Courts must guard against the misuse of criminal law to settle what are essentially civil or commercial disputes. The relevant para nos. 17-18 are extracted as under: -

> ***17.*** *This Court has, in a long line of decisions, deprecated the tendency to convert civil disputes into criminal proceedings. In Indian Oil Corporation v. NEPC India Ltd,* ***__it was held that criminal law cannot be used as a tool to settle scores in commercial or contractual matters, and that such misuse amounts to abuse of process__****. The following paragraphs from the decision are apposite:*
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> > *"9. The principles, relevant to our purpose are:*
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> > *(iii)* ***__The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.__***
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> > *(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed.* ***__Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.__***
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> > *(v) A given set of facts may make out: (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceedings are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil*

[2] 2025 SCC OnLine SC 2060.

*remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings**. The test is whether the allegations in the complaint disclose a criminal offence or not.***

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18. *Similarly, in Inder Mohan Goswami v. State of Uttaranchal, it was **emphasized that criminal prosecution must not be permitted as an instrument of harassment or private vendetta.** In Ganga Dhar Kalita v. State of Assam, this Court again reiterated that criminal complaints in respect of property disputes of civil nature, filed solely to harass the accused or to exert pressure in civil litigation, constitute an abuse of process.*

(Emphasis Supplied)

8. Applying the ratio of ***Anudeep Singh Chauhan (Supra) and Anukul Singh (Supra)*** to the present case, a subsequent action by the MCD demolishing the said property thirteen years down the line cannot retrospectively supply the essential ingredient of initial *mens rea*. Furthermore, allowing the criminal machinery to be used as an instrument of harassment after lapse of considerable time would amount to gross abuse of process of law.

9. Considered the overall facts and circumstance of the present case, this Court does not find any justification to interfere into the orders passed by the Courts below. Accordingly, the instant petition stands failed, and is hereby, dismissed.

PURUSHAINDRA KUMAR KAURAV, J

AUGUST 6, 2026
Nc/ad