

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No.7641/2024

- 1. Badrilal Sharma S/o Shri Jamunashankar Ji Sharma, Aged About 76 Years, Resident Of 167, Mahaveer Nagar-II, Kota.
- 2. Girja Shankar Shrama S/o Shri Badrilal Sharma, Aged About 44 Years, Resident Of 167, Mahaveer Nagar-II, Kota.
- 3. Gajendra Sharma S/o Shri Badrilal Shrama, Aged About 40 Years, Resident Of 167, Mahaveer Nagar-II, Kota.
- 4. Ravi Kant Sharma S/o Late Shri Prabhakar Sharma, Aged About 49 Years, Resident Of House No. 3-C-35, Dadabari Extension, Kota (Raj).

-----Petitioners

Versus

- 1. State Of Rajasthan through its P.P.
- 2. Govindlal S/o Shri Behru, Village Padliya, Tehsil Mangrole, District Baran (Raj).

-----Respondents

For Petitioner(s)	:	Mr. Shailesh Prakash Sharma Mr. Avi Sharma
For Respondent(s)	:	Mr. Jitendra Singh Rathore, PP Mr. Dinesh Singh (through Video Conferencing) Mr. Narsi Prasad Sharma

JUSTICE ANOOP KUMAR DHAND

Order

01/05/2026

- 1. By way of filing the instant criminal misc. petition, a challenge has been led to the impugned FIR No.379/2024 registered with the Police Station Nayapura, District Kota City for the offences punishable under Sections 246, 318(4), 336(3), 338, 340(2) and 61(2)(a) BNS, 2023.
- 2. Learned counsel for the accused-petitioners submits that during pendency of a Civil Suit bearing No.162/2022 between the

parties, an application under Order 7 Rule 11 read with Section 151 CPC was submitted by the complainant-respondent (hereinafter referred to as "the complainant"). While deciding the said application on 23.08.2024, learned Additional District Judge No.1, Kota issued a direction in Para 11 of the said order for registration of an FIR against the petitioners-Badrilal Sharma, Girja Shankar Sharma, Gajendra Sharma and Ravi Kant Sharma for the offence of creating fabricated and false agreement. The same was issued to the Superintendent of Police, Kota to register a criminal case against the aforesaid accused persons under Section 61(2), 246, 318(4), 336(2), 336(3), 338 and 340(2) of BNS 2023.

3. Learned counsel for the accused-petitioners further submits that the aforesaid order dated 23.08.2024 was assailed by the accused-petitioners before this Court by way of filing S.B. Civil Writ Petition No.14062/2024, wherein an interim order was passed by this Court on 31.08.2024, by which the aforesaid direction issued by the Additional District Judge No.1, Kota was stayed. Learned counsel submits that prior to passing of the aforesaid interim order dated 31.08.2024 in S.B. Civil Writ Petition 14062/2024, the impugned FIR No.379/2024 was registered with the Police Station Nayapura, District Kota City on 29.08.2024 i.e. two days before the aforesaid interim order, hence, under these circumstances, the accused-petitioners have approached this Court by way of filing the instant criminal misc. petition for quashing of the impugned FIR.

4. Learned counsel for the accused-petitioners submits that further investigation of the impugned FIR was stayed by this Court

vide order dated 19.11.2024 in the present petition and during pendency of the same, S.B. Civil Writ Petition No.14062/2024 has been decided by the co-ordinate Bench of this Court vide order dated 06.01.2026 and the observations made by the learned Additional District Judge No.1, Kota in Paras 10 and 11 of the order dated 23.08.2024 in Civil Suit No.162/2022 have been set-aside and Paras 12 and 13 have been partially set-aside. Hence, under these circumstances, the impugned FIR is not tenable in the eyes of law and is required to be quashed and set-aside.

5. *Per contra*, learned Public Prosecutor oppose the prayer, but he is not in a position to controvert the submissions made by learned counsel for the accused-petitioners.

6. Learned counsel appearing on behalf of the complainant-respondent opposes the prayer and submits that a false and fabricated agreement was created by the accused-petitioners and that is why a direction was issued by the Additional District Judge No.1, Kota, for registration of impugned FIR against them. Learned counsel further submits that the matter is required to be investigated by the Investigating Agency and the disputed agreement is required to be analyzed by the Forensic Science Laboratory, hence, under these circumstances, interference of this Court is not warranted and the instant petition is liable to be rejected.

7. Heard and considered the submissions made at the Bar and perused the material available on record.

8. Perusal of the record indicates that a civil suit bearing No.162/2022 is lying pending between the parties before the Court of the Additional District Judge No.1, Kota, wherein an

application under Order 7 Rule 11 read with Section 151 CPC was submitted by the complainant-Govind Lal for rejection of the plaint submitted by the petitioner. While deciding the aforesaid application, learned Additional District Judge No.1, Kota not only rejected the aforesaid application, but also passed certain observations and directions in Para 11, which reads as under:-

11. इस प्रकार से सम्पूर्ण फर्जी इकरारनामा दिनांकित 10.03.2016 के अवलोकन से यह स्पष्ट होता है कि उक्त फर्जी इकरारनामा की कूटरचना बद्रीलाल शर्मा, गिरजा शंकर शर्मा, गजेन्द्र शर्मा तथा श्री रविकांत शर्मा, नोटरी द्वारा की गयी है, जिसके संबंध में प्रकरण दर्ज कराया जाकर जांच कराया जाना आवश्यक एवं न्यायोचित प्रतीत होता है। अतः जिला पुलिस अधीक्षक, कोटा शहर को इस आदेश की प्रति के साथ असल फर्जी इकरारनामा दिनांकित 10.03.2016 व श्री रविकांत शर्मा नोटरी, कोटा के रजिस्टर की प्रति प्रेषित कर आदेश दिया जाता है कि वे उक्त फर्जी इकरारनामा दिनांकित 10.03.2016 के संबंध में बद्रीलाल शर्मा पुत्र श्री जमुनाशंकर शर्मा, गिरजा शंकर शर्मा पुत्र श्री बद्रीलाल शर्मा, गजेन्द्र शर्मा पुत्र श्री बद्रीलाल शर्मा निवासियान 167 महावीर नगर द्वितीय कोटा तथा श्री रविकांत शर्मा नोटरी, कोटा के विरुद्ध धारा 61(2), 246, 318(4), 366(2), 336(3), 338, 340(2) भारतीय न्याय संहिता, 2023 के तहत प्रकरण दर्ज कर विधि अनुसार कार्यवाही उपाधीक्षक स्तर के पुलिस अधिकारी से करावें, साथ ही एक महा में प्रगति रिपोर्ट इस न्यायालय में पेश करें।

9. Perusal of the aforesaid Para 11 of the order dated 23.08.2024 indicates that a direction has been issued by the learned Additional District Judge No.1, Kota for registration of FIR against all the four petitioners for the offence of creating of false and fabricated agreement.

10. Aggrieved by the aforesaid order dated 23.08.2024, the accused-petitioners approached this Court by way of filing S.B. Civil Writ Petition No.14062/2024. During the course of hearing, the following interim order dated 31.08.2024 passed by the co-ordinate Bench of this Court:-

“1. Office has pointed out the defects about filing of the writ petition against the order dated 23.08.2024 as well as mismatch of cause title with the cause title of suit since petitioner No.4 is not party to the suit.

2. At the outset, learned counsel for the petitioners states that petitioners-plaintiffs no.1 to 3 would avail the statutory remedy of appeal against the order dated 23.08.2024 passed in Civil Suit No.162/2022 by the Additional District Judge No.1, Kota rejecting their civil suit for specific performance under Order 7 Rule 11 read with Section 151 CPC for want of territorial jurisdiction, but since the learned Judge has also made observations that the agreement in question dated 10.03.2016 is a forged document and issued direction to register criminal case against plaintiffs as well as against the Notary Public (petitioner No.4 herein) who attested the agreement, hence, this writ petition has been preferred by plaintiffs-petitioners No.1 to 3 along with petitioner No.4.

A separate application(1/2024) has been filed seeking leave by petitioner No.4 to file instant writ petition.

3. Counsel for petitioners, during course of arguments, has confined the scope of present writ petition only to the extent of challenging the findings recorded by learned Judge in the impugned order to hold the agreement to sale as forged document and issuing directions to register a criminal case against the petitioners. In this respect, learned counsel for petitioners has placed reliance on the judgment of Hon'ble Supreme Court in case of **M/s Godrej Sara Lee Ltd. Vs. The Excise and Taxation Officer-cum-Assessing Authority [(2023) LiveLaw (SC) 70]**.

4. Counsel for petitioners submits that when Civil Court reached to the conclusion that the present civil suit for specific performance is not liable to be maintained for want of territorial jurisdiction of Court of Additional District Judge No.1, Kota then the suit must have been returned under Order 7 Rule 10 CPC for presentation before proper Court, having territorial jurisdiction instead of rejecting the suit under Order 7 Rule 11 CPC. Nevertheless, his submission is that this point shall be raised by the plaintiffs in the appeal to

be filed against rejection of their suit but as far as on the issue of entertaining this writ petition, his submission is that after rejection of the civil suit vide impugned order for want of territorial jurisdiction, it was not within jurisdiction of the Judge of Additional District Judge No.1, Kota to examine the validity of the agreement in question and hold that agreement in question is a forged document as well as to issue directions to register a criminal case against the petitioners. Thus, to this extent, the Civil Judge has transgressed its jurisdiction and against such findings and directions, the petitioners may invoke the writ jurisdiction of High Court under Article 226 of the Constitution of India and this writ petition may be held maintainable.

5. Let notice be issued to the respondents. The issue of maintainability of writ petition as well as application No.1/2024 shall be considered and decided after service of notice upon the respondents.

6. It is made clear that it shall remain open to petitioners-plaintiffs No.1 to 3 to file civil first appeal against rejection of their plaint under Order 7 Rule 11 CPC vide impugned order 23.08.2024, which part of order is not challenged in this writ petition.

7. List the matter on 10.10.2024.

8. In the meanwhile, the observations made by the Additional District Judge No.1, Kota in the order impugned dated 23.08.2024 to hold the agreement to sale dated 10.03.2016 as forged document and issuing directions to register criminal case against the petitioners shall remain stayed."

11. Perusal of the interim order dated 31.08.2024 indicates that an interim order was passed by this Court, wherein the directions issued by the Court below for registration of the Criminal Case against the petitioners were stayed by this Court.

12. It appears that prior to passing of the aforesaid interim order dated 31.08.2024, two days before i.e. 29.08.2024 the impugned FIR was registered by the Police Station Nayapura District Kota City against the petitioners for the offences punishable under

Sections 246, 318(4), 336(3), 338, 340(2) and 61(2)(a) BNS, 2023.

13. Hence, aggrieved by the aforesaid, the petitioners submitted the instant criminal misc. petition, however, during pendency of the present petition, S.B. Civil Writ Petition No.14062/2024 has been decided by the co-ordinate Bench of this Court vide order dated 06.01.2026 with the following observations and directions:-

"1. With the consent of both the parties, the matter is finally heard.

2. Learned counsel for the petitioner submits that vide impugned order dated 23.08.2024 passed by learned Additional District Judge No.1, Kota, the Court has not only rejected the suit by exercising power under Order 7 Rule 11 read with Section 151CPC but has also made observations with regard to the agreement to sell.

3. Learned counsel for the petitioner submits that against the order dated 23.08.2024, wherein the suit was rejected, he had already filed an appeal before this Court and the appeal is pending for adjudication. However, herein he is only aggrieved by the observations which have been made by the learned Trial Court regarding the agreement to sell.

4. He contends that the observations made by learned Trial Court were beyond its jurisdiction, once the learned Trial Court has found itself having no jurisdiction to decide the suit, it ought not to have proceeded further to make any observations thereafter with regard to the agreement to sell.

5. Therefore, he prays that the writ petition may be allowed and the observations made with regard to the agreement to sell may be quashed and set aside.

6. Per contra, learned counsel for the respondent submits that the agreement to sell is forged and therefore, the learned Trial Court has rightly observed it to be a forged document and he supports the order dated 23.08.2024. However, he could not refute position of law that once the Court

finds itself having no jurisdiction, the observations cannot be made.

7. Heard learned counsel appearing for the parties.

8. This Court finds that an appeal has already been preferred by the appellant against the order dated 23.08.2024, whereby his suit was rejected while exercising the power under Order 7 Rule 11 CPC. Further, on perusal of the impugned order, it is clear that while exercising its power under Order 7 Rule 11 CPC i.e. rejection of plaint, there was no jurisdiction with the learned Trial Court to have made further any observation on the agreement to sell.

9. Therefore, this Court deems it appropriate to exercise its writ jurisdiction under Article 227 of the Constitution of India and set aside the observations made in Para Nos. 10, 11, partially in Para No. 12 and Para No.13 with regard to the agreement to sell by learned Trial Court in the impugned order dated 23.03.2024.

10. With the above observations, the present Civil Writ Petition stands disposed of.

11. All pending application(s) also stand disposed of."

14. While passing the order dated 06.01.2026, the co-ordinate Bench of this Court in Para 9 of the aforesaid order has passed a clear and specific observation and direction that the observations made by the learned Additional District Judge No.1, Kota in the impugned order dated 23.08.2024 in Paras 10 and 11 stands quashed and set-aside. Meaning thereby, the genesis and origin of the impugned FIR has been quashed and set-aside. Hence, under these circumstances, the continuation of the proceedings against the petitioners in the impugned FIR arising out of Para 11 of the order dated 23.08.2024 passed by the learned Additional District Judge No.1, Kota amounts to gross abuse of the process of law and the same cannot be allowed to continue.



15. Accordingly, the instant criminal misc. petition stands allowed. The impugned FIR No.379/2024 registered with the Police Station Nayapura, District Kota City stands quashed and set-aside.

16. Stay application as well as all pending applications, if any, stand disposed of.

(ANOOP KUMAR DHAND),J