

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<p><u>C528 No. 28 of 2024</u></p> <p><b><u>Hon'ble Rakesh Thapliyal, J.</u></b></p> <ol style="list-style-type: none"> <li>1. Mr. Sanjay Bhatt, learned counsel for the applicants.</li> <li>2. Present application has been preferred under Section 528 of the Act No. 46 of 2023 for challenging the proceeding of complaint case no. 18 of 2024, Vijay Singh Mahra vs. Basanti Pandey &amp; others, wherein Chief Judicial Magistrate, Champawat took cognizance for the offence punishable under Section 420 IPC.</li> <li>3. Brief facts, of the case, are that applicant no. 2 sold a piece of land to applicant no. 1 by virtue of sale deed dated 15.12.2020, and thereafter, mutation proceedings were initiated and on 10.05.2021 in mutation proceedings directions were issued to enter the name of Basanti Devi-applicant no. 1 in revenue records in place of Mahesh Singh-applicant no. 2. Subsequently, respondent/complainant who is in fact cousin brother of applicant no. 2 raised objection since, the property in question was the ancestral property and subsequently both applicant nos. 1 and 2 come up with settlement that applicant no. 2 give another piece of land to applicant no. 1, and subsequently another piece of land was given to applicant no. 1 by virtue of another sale deed and on the basis of this settlement, the earlier mutation proceedings which were initiated in which the name of applicant no. 1 was recorded in the revenue record was withdrawn for which</li> </ol>

		<p>both the applicants approached to another accused who is lawyer and moved withdrawal application.</p> <p>4. It is also submitted by the learned counsel for the applicant that regular suit was also filed by the respondent impleading applicants as defendant in O.S. No. 7 of 2023. The learned counsel for the applicant has given this statement on the basis of the instruction received from his client and this suit was filed for cancellation of sale deed dated 15.12.2022 by which applicant no. 2 earlier sold the land to applicant no. 1.</p> <p>5. Learned counsel for the applicant submits that despite the fact that regular suit bearing O.S. No. 7 of 2023 has already been filed by the respondent/complainant for cancellation of sale deed dated 15.12.2023, he has initiated criminal proceeding by filing a complaint which was registered as pursuant to complaint case no. 18 of 2024.</p> <p>6. It is submitted by the learned counsel for the applicants that initiation of the proceeding pursuant to the complaint is an abuse of process of law in view of the fact that respondent has already instituted a civil suit on 14.12.2023 in which both the applicants are defendant.</p> <p>7. I found force on the submissions of the learned counsel for the applicants.</p> <p>8. Issue notice to the respondent returnable within three weeks.</p> <p>9. Learned counsel for the applicants shall take steps to serve the respondent within a week.</p> <p>10. Respondents may file counter affidavit within four weeks. Two weeks thereafter is granted to the counsel for the applicants to file rejoinder affidavit.</p> <p>11. List this matter on 21.08.2024 along with C482 No. 1229 of 2024.</p> <p>12. In the meantime summoning order dated 22.06.2024 passed by Chief Judicial</p>
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Magistrate Champawat in complaint case no. 18 of 2024, Vijay Singh Mahra vs. Basanti Pandey shall remain stayed.

**(Rakesh Thapliyal, J.)**  
12.07.2024

Parul