



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Misc(Pet.) No. 5522/2024

1. Vijay Sharma S/o Shri Suresh Kumar Sharma, Aged About 32 Years, 137, Central School Scheme, Near Airforce, Ratanada, Jodhpur.
2. Prahalad S/o Shri Nagji Ram, Aged About 35 Years, Rodo Ki Dhani, Bhinmal Distt. Jalore.

-----Petitioners

Versus

State Of Rajasthan, Through PP

Satish Kumar S/o Late Shri Babu Lal, 119, Magh Colony, Bhinmal, Distt. Jalore.

-----Respondents



For Petitioner(s) : Mr. Firoz Khan
For Respondent(s) : Mr. C.P. Soni
Mr. Aju V. Josh (R-2)
Mr. Vikram Rajpurohit, PP

HON'BLE MR. JUSTICE ARUN MONGA

Order

Reportable

21/08/2024

1. Indulgence of this Court is sought herein for quashing of an FIR No. 0299/2024 dated 27.07.2024, registered under Sections 420, 406, 467, 468, 471 and 120-B of the I.P.C., at Police Station Bhinmal, District Jalore.
2. Petitioners (accused in the FIR) and respondents No.2 (complainant in FIR) are family members. Dispute relates to estate of late paternal grandmother of the petitioners who was mother of the complainant/respondent no.2.
3. Complainant, the paternal uncle (chacha) alleges that his two nephews (petitioners) have forged the Will of his mother and

basis thereof, after her death, they got the property in question transferred/mutated in their names in revenue records. Thus, in conspiracy with the revenue officials, they have cheated him and committed alleged offences under sections 420/406/467/468/471 read with 120-B of IPC.

4. ARGUMENTS OF THE PETITIONERS

4.1 At the very outset, *de hors* merits of the allegations in the FIR relying upon the provisions of section 358 with emphasis on its sub section (3) of Bhartiya Nyaya Sanhita, 2023 (BNS), learned counsel for the petitioner canvassed that once the Indian Penal code stands repealed with effect from 01.07.2024, no FIR can be registered invoking the offences prescribed there under. On that ground alone, he seeks quashing of the FIR. Furthermore, he relies on a judgment rendered by this very bench in case titled ***Krishna Joshi versus State of Rajasthan***¹. Citing the same, he contends that once the BNSS is applicable w.e.f. 01.07.2024 as per ratio of judgement *ibid*, likewise, the applicability of BNS also must be interpreted in the same manner. Thus, he contended that after First of July, 2024 provisions of only BNS can be invoked and not those of IPC.

4.2 On merits, he would argue that *ex facie* the contents of FIR do not make out commission of any offence.

4.3 FIR is liable to be quashed since it is a purely family dispute. Transfer of property is duly documented/mutated in accordance with law. Dispute, if any, is absolutely civil in nature.

5. SUBMISSIONS BY THE RESPONDENTS

¹ Rajasthan High Court- S.B.Cr. Misc. (Pet.) No.4285/2024, dated 09.09.2024.

5.1 *Au contraire*, learned Public Prosecutor urged that an administrative circular dated 28.06.2024 has been issued by the Director General of Police, Rajasthan. Said circular governs registration of FIRs post 01.07.2024, whereby police officials have been instructed as below:-

Date of Occurrence of Offence	Date of filing / reporting of the offence	Which Penal law will be applicable	Which procedural law will be applicable
If before 01/07/2024	If before 01/07/2024	Indian Penal Code, 1860	Code of Criminal Procedure, 1873
If before 01/07/2024	If after 01/07/2024	Indian Penal Code, 1860	Bhartiya Nagrik Suraksha Sanhita, 2023
If after 01/07/2024	If after 01/07/2024	Bhartiya Nyaya Sanhita, 2023	Bhartiya Nagrik Suraksha Sanhita, 2023

5.2. Submission is that FIR has been rightly registered under the IPC as per circular *ibid*. No interference of this Court is thus warranted.

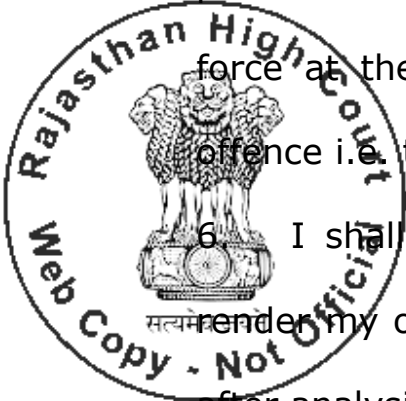
5.3 He and learned counsel for complainant-respondent No. 2 would further argue in unison that, in present case, though the First Information Report was registered on 27.07.2024 i.e. after 01.07.2024, but since the date of commission of alleged offence is 05.10.2021 (when the Will was allegedly forged / created by the accused) i.e. before 01.07.2024, therefore, in compliance of the order dated 28.06.2024, supra, the First Information Report has been rightly registered under relevant Sections of Indian Penal Code, 1860. However, the learned Public Prosecutor also argued that further investigation and procedural aspect would be carried out under the provisions of Bharatiya Nagrik Suraksha Sanhita, 2023 and not Cr.P.C, since the FIR is post 01.07.2024.

5.4 Learned counsel appearing on behalf of complainant respondent no. 2 relying on Article 20 (1) of The Constitution of India, would argue that that in the present case, since the act or omission ascribed to the petitioners-accused was an offence under the IPC at the time of its commission or omission, in the event of proof thereof, they shall be convicted for violation of the law in force at the time of the commission of the act charged as an offence i.e. the IPC.

6. I shall now proceed to deal with the rival contentions and render my opinion thereupon by recording reasons and discussion after analysing the relevant provisions of law.

7. For dealing with and adjudicating the rival contentions, the following questions of law need consideration and adjudication:

- (a). Whether or not after enforcement of Bhartiya Nyaya Sanhita from 01.07.2024, an FIR can be registered under IPC for offences committed under the Indian Penal Code (IPC) before 01.07.2024?
- (b). Whether or not qua offences committed before 01.07.2024 under the Indian Penal Code (IPC), an FIR can be registered under (BNS) after enforcement of Bhartiya Nyaya Sanhita (BNS) from 01.07.2024?
- (c). Which procedure would apply to an FIR registered after enforcement of Bhartiya Nagrik Suraksha Sanhita (BNSS) for offences under IPC committed before 01.07.2024?

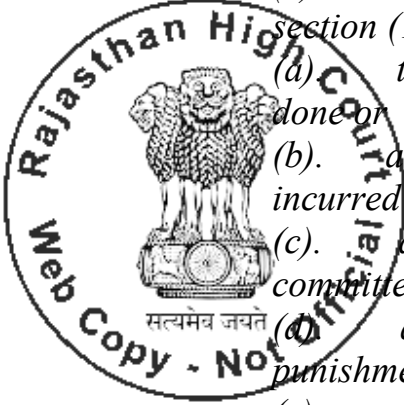


8. Before adumbrating further, let us first read the relevant repeal and savings provisions contained in section 358 of the BNS and section 531 of the BNSS which are as below:-

The Bharatiya Nyaya Sanhita/ BNS:

Section 358 - Repeal and savings.

- (1). *The Indian Penal Code is hereby repealed.*
- (2). *Notwithstanding the repeal of the Code referred to in sub-section (1), it shall not affect,—*
 - (a). *the previous operation of the Code so repealed or anything duly done or*
 - (b). *any right, privilege, obligation or liability acquired, accrued or incurred under the Code so repealed; or*
 - (c). *any penalty, or punishment incurred in respect of any offences committed against the Code so repealed; or*
 - (d). *any investigation or remedy in respect of any such penalty, or punishment; or*
 - (e). *any proceeding, investigation or remedy in respect of any such penalty or punishment as aforesaid, and any such proceeding or remedy may be instituted, continued or enforced, and any such penalty may be imposed as if that Code had not been repealed.*
- (3). *Notwithstanding such repeal, anything done or any action taken under the said Code shall be deemed to have been done or taken under the corresponding provisions of this Sanhita.*
- (4). *The mention of particular matters in sub-section (2) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of the repeal.”*



Bhartiya Nagrik Suraksha Sanhita (BNSS):

“531. *Repeal and savings-*

- (1). *The Code of Criminal Procedure, 1973 (2 of 1974) is hereby repealed.*
- (2). *Notwithstanding such repeal—*
 - (a). *if, immediately before the date on which this Sanhita comes into force, there is any appeal, application, trial, inquiry or investigation pending, then, such appeal, application, trial, inquiry or investigation shall be disposed of, continued, held or made, as the case may be, in accordance with the provisions of the Code of Criminal Procedure, 1973, (2 of 1974), as in force immediately before such commencement (hereinafter referred to as the said Code), as if this Sanhita had not come into force;*
 - (b). *all notifications published, proclamations issued, powers conferred, forms provided by rules local jurisdictions defined, sentences passed and orders, rules and appointments, not being appointments as Special Magistrates, made under the said Code and which are in*

force immediately before the commencement of this Sanhita, shall be deemed, respectively, to have been published, issued, conferred, specified, defined, passed or made under the corresponding provisions of this Sanhita;

(c) any sanction accorded or consent given under the said Code in pursuance of which no proceeding was commenced under that Code, shall be deemed to have been accorded or given under the corresponding provisions of this Sanhita and proceedings may be commenced under this Sanhita in pursuance of such sanction or consent;

(3). Where the period specified for an application or other proceeding under the said Code had expired on or before the commencement of this Sanhita, nothing in this Sanhita shall be construed as enabling any such application to be made or proceeding to be commenced under this Sanhita by reason only of the fact that a longer period therefor is specified by this Sanhita or provisions are made in this Sanhita for the extension of time."



9. It would thus be seen that the repeal of the Indian Penal Code (IPC) shall not affect, *inter alia*, —

- (a). the previous operation of the Code so repealed or anything duly done or*
- (b). any right, privilege, obligation or liability acquired, accrued or incurred under the Code so repealed; or*
- (c). any penalty, or punishment incurred in respect of any offences committed against the Code so repealed.*

10. Article 20 of the Constitution of India reads as under:-

"20. Protection in respect of conviction for offences.-

(1). No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the Act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

(2). No person shall be prosecuted and punished for the same offence more than once.

(3). No person accused of any offence shall be compelled to be a witness against himself."

11. Article 20 *ibid* mandates that a person can be convicted only of an offence for the violation of law in force at the time of the alleged act of commission or omission and cannot be subjected to

a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

12. In my opinion, a combined reading of Article 20 of the Constitution of India and aforesaid saving provisions of section 358 of the BNS amply show that the IPC shall apply to any obligation, liability, penalty or punishment accrued or incurred before 01.07.2024. In other words, in respect of the offences committed under the Indian Penal Code (IPC) before 01.07.2024, the offender can/has to be dealt with and punished under IPC even after enforcement of Bhartiya Nyaya Sanhita from 01.07.2024. Thus, it seems that for the offences committed under the Indian Penal Code (IPC) before 01.07.2024, FIR has to be registered under the IPC.



13. In this context, a Division Bench Judgment of Allahabad High Court in case of **Deepu & Ors. Vs. State of Uttar Pradesh & Ors.**² has held as under:

"16. On the basis of above analysis, this Court is also summarising the law regarding effect of repealing the IPC and Cr.P.C. by BNS and BNSS respectively and same is being mentioned as below:

(i) If an FIR is registered on or after 1.7.2024 for the offence committed prior to 1.7.2024, then FIR would be registered under the provisions of IPC but the investigation will continue as per BNSS.

(ii) In the pending investigation on 01.07.2024 (on the date of commencement of New Criminal Laws), investigation will continue as per the Cr.P.C. till the cognizance is taken on the police report and if any direction is made for further investigation by the competent Court then same will continue as per the Cr.P.C.;

(iii) The cognizance on the pending investigation on or after 01.07.2024 would be taken as per the BNSS and all the subsequent proceeding including enquiry, trial or appeal would be conducted as per the procedure of BNSS.

(iv) Section 531(2)(a) of BNSS saved only pending investigation, trial, appeal, application and enquiry, therefore, if any trial, appeal, revision or application is commenced after 01.07.2024, the same will be proceeded as per the procedure of BNSS.

(v) The pending trial on 01.07.2024, if concluded on or after 01.07.2024 then appeal or revision against the judgement passed in such

²

Allahabad High Court- Criminal Misc. Writ Pet. No.12287/2024 decided on 06.08.2024.

a trial will be as per the BNSS. However, if any application is filed in appeal, which was pending on 01.07.2024 then the procedure of Cr.P.C. will apply.

(vi) If the criminal proceeding or chargesheet is challenged before the High Court on or after 01.07.2024, where the investigation was conducted as per Cr.P.C. then same will be filed u/s 528 of BNSS not u/s 482 Cr.P.C.”

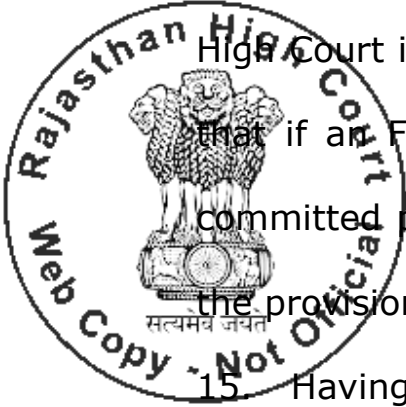
14. In the light of foregoing discussion coupled with and concurring with the view taken by the Division Bench of Allahabad

High Court in *Deepu & Ors supra*, I am, therefore, inclined to hold that if an FIR is registered on or after 1.7.2024 for the offence committed prior to 1.7.2024, then FIR has to be registered under the provisions of IPC.

15 Having opined as above, I am thus not able to persuade myself that sub Section 3 of Section 358 of BNS envisages that acts done prior to 01.07.2024 can be taken cognizance under the corresponding provision of BNS. Reliance placed by learned counsel for the petitioner is on the non obstante clause/sub section 3 of Section 358 (may be termed as sunset clause) which states that "Notwithstanding such repeal, anything done or any action taken under the said Code shall be deemed to have been done or taken under the corresponding provisions of this Sanhita."

Contention of learned counsel for petitioner that after repeal of the Indian Penal Code with effect from 01.07. 2024, no FIR can be registered invoking the offences prescribed there under in view of the provisions of section 358(3) of Bhartiya Nyaya Sanhita, 2023, to my mind, proceeds on a misconstruction of the provision *ibid* by ignoring the immediately preceding provisions of sub-section (2).

16. A close reading for harmonious construction of sub sections (2) and (3) of section 358 of the Sanhita reproduced above, shows



that these two sub-sections cover different fields. Sub-section (2) covers the field of the offender's liability for offences committed under the Code (IPC) before 01.07.2024. Sub-section (3) *ibid* protects and provides for the implementation of things done or action taken under the said Code (IPC) by the competent courts/authorities before 01.07.2024 and from their being questioned owing on repeal of the Code.

17 Further, the contention of the learned counsel for the petitioner, if accepted, would result in illogical and absurd consequences, besides amounting to a contradiction between the provisions of sub-sections (2) and sub-section (3) of Section 358 of BNS. To elaborate the same, whereas in terms of sub-section (2), for offences committed under the Code (IPC) before 01.07.2024 the liability of offenders would continue, but by operation of sub-section (3), such liability would cease after repeal of the Code. Any such interpretation, as contended by the learned counsel for the petitioner, would be illogical, lead to patently farcical consequences, besides being apparently contrary to the object and plain text of the provisions *ibid* and the intent of the legislature.

18. Accordingly, question (a) framed above is answered in the affirmative. As a corollary thereto, it is held that qua the offences committed before 01.07.2024 under the Indian Penal Code (IPC), an FIR cannot be registered under (BNS) after enforcement of Bhartiya Nyaya Sanhita (BNS) from 01.07.2024. Question (b) is, therefore, answered in the negative.



19. Let us now move on to the question of procedure applicable to an FIR registered after enforcement of Bhartiya Nagrik Suraksha Sanhita (BNSS) for offences under IPC committed before 01.07.2024. Sub section (2) of section 531 BNSS provides, *inter alia*, that notwithstanding the repeal of Code of Criminal Procedure:



(a). *if, immediately before the date on which this Sanhita comes into force, there is any appeal, application, trial, inquiry or investigation pending, then, such appeal, application, trial, inquiry or investigation shall be disposed of, continued, held or made, as the case may be, in accordance with the provisions of the Code of Criminal Procedure, 1973, (2 of 1974), as in force immediately before such commencement (hereinafter referred to as the said Code), as if this Sanhita had not come into force.”*

20. It would be seen that clause (a) *ibid* is attracted only if there is any appeal, application, trial, inquiry or investigation pending at the time of enforcement of the BNSS on 01.07.2024.

21. Section 531(2)(a) of BNSS has saved only pending investigation, trial, appeal, application and enquiry, therefore, if any trial, appeal, revision or application has commenced after 01.07.2024, the same will be proceeded as per the procedure of BNSS. In other words, if there was no investigation pending when BNSS came into force, then the saving clause 531(2)(a) of BNSS would not be attracted.

22. Moreover, as per Section 157 Cr.P.C. (Section 176 BNSS) investigation would start from the date of registration of F.I.R. Accordingly, if F.I.R. itself is registered on or after 01.07.2024, i.e. after enforcement of BNSS, obviously the investigation would start only after it's registration i.e. after the enforcement of BNSS. In

other words there would be no investigation pending at the time of enforcement of the BNSS on 01.07.2024. No question would, therefore, arise for the applicability of clause (a) *ibid* in such a case as there was no investigation pending on 01.07.2024.

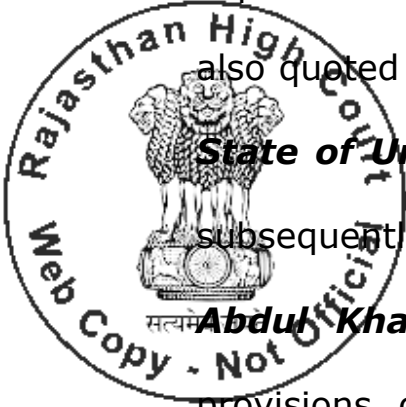
23. In fact, Division Bench of Allahabad High Court has already expressed similar view in *Deepu & ors., supra*. While doing so, it also quoted with approval the view taken in the case of **XXXX Vs. State of Union Territory of Chandigarh and Anr.**³ which was subsequently relied upon by the Kerala High Court in the case of **Abdul Khadir Vs. State of Kerala**⁴ to the effect that the provisions of Section 4 and Section 531 of BNSS, 2023 are mandatory in nature as a result whereof any appeal / application / revision / petition / trial / inquiry or investigation pending before 01.07.2024 are required to be disposed of continued, held or made (as the case may be) in accordance with the provision of Code of Criminal Procedure, 1973. In other words; any appeal/application/revision/petition filed on or after 01.07.2024, is required to be filed/instituted under the provision of BNSS 2024.

24. In view of the above discussion, I am of the opinion that in respect of an FIR registered on or after 01.07.2024 for offences under IPC committed before 01.07.2024, the applicable procedure shall be as prescribed in the Bhartiya Nagrik Suraksha Sanhita (BNSS). Question (c) formulated in the earlier part of the judgment is answered accordingly.

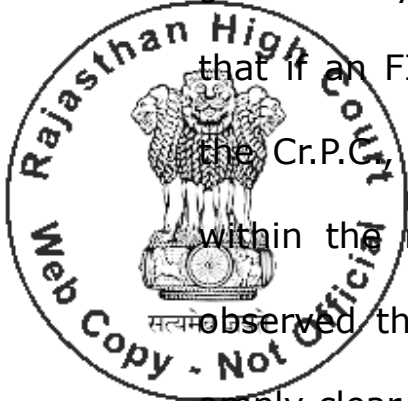
25. In **Krishan Joshi Vs. State of Rajasthan**, relied upon by learned counsel for the petitioner, the FIR was registered on

³ Punjab and Haryana High Court- CRM-Misc. Pet.-31808-2024 dated 11.07.2024

⁴ Kerala High Court- Crl. Appeal No.1186 of 2024 dated 15.07.2024.



02.02.2024 under section 406/420 of IPC. It is *inter alia* observed therein that saving clause in Section 531(2) [of BNSS] stipulates that notwithstanding the repeal [of Code of Criminal Procedure], any appeal, application, trial, inquiry, or investigation pending before the new Sanhita comes into force will continue to be governed by the old Code of Criminal Procedure, 1973. It was held that if an FIR is registered prior to 01.07.2023 (sic 2024) under the Cr.P.C. it would amount to a pending inquiry / investigation within the meaning of section 531(2)(a) of BNSS. It was also observed that in view of Section 531(2)(a) of the BNSS, it was amply clear that all the pending matters prior to coming into force of BNSS, 2023, as specifically mentioned therein, shall continue to be governed by the old Code i.e. Cr.P.C., 1973.



26. In Krishan Joshi case, the FIR was registered on 02.02.2024. Petition itself was initially filed on 01.07.2024 for quashing the FIR. Thus, the quashing petition (filed on 01.07.2024) was not pending though investigation of the FIR was pending prior to coming into force of BNSS, 2023. The quashing petition filed on 01.07.2024 was thus not covered by the saving provisions of clause (a) of sub section (2) of section 531 of the BNSS, required to be disposed of in accordance with the Cr.P.C. By mistake, however, it was held that the petition for quashing of the FIR had to be treated under Section 482 Cr.P.C.

27. In view of the answers to the law question (a) and (b) rendered above, I am not inclined to accept the contention of the learned counsel for the petitioner that once the Indian Penal Code stands repealed with effect from 1 July 2024, no FIR can be

registered invoking the offences under IPC provisions and on that short ground alone, the impugned FIR registered for offences under the IPC ought to be quashed, de-hors the merits of allegations contained therein.

28. Adverting now to the merits of the FIR in the case in hand, having heard the learned counsel for the petitioners and learned PP and learned counsel for complainant-private respondent and after perusal of the contents of the FIR, I am of the view that there are other sufficient reasons/grounds in the case for quashing the impugned FIR. Let us now see those reasons/grounds.



28.1. For proper analysis, it is apposite to first reproduce the translated version of the FIR before proceeding further. Same is as below:-

- i. *I, Satish Kumar, son of Shri Babulalji, of the Shri Mali caste, resident of Bhinnmal, submit as follows: My late mother, Smt. Swati Devi, wife of the late Shri Babulalji, resident of Bhinnmal, had agricultural land besides other property. Among her properties was a field with old Khasra No. 2303/4, now Khasra No. 4322, with an area of 0.11 hectares, located in Mauza Bhinnmal. A copy of the Jamabandi dated 08-01-2021 is attached.*
- ii. *My mother, Smt. Bhagwati Devi, at the age of 85, had diminished cognitive abilities. Taking advantage of this, my nephew Vijay Kumar, son of Suresh Kumar, of the Shri Mali caste, resident of 137 Central School Scheme, Jodhpur, got a fake will made in Jodhpur on 05-10-2021. In this fake will, he claimed 500.4 square yards of land from the said Khasra No. 2303/4, new Khasra No. 4322, in his name. A copy of the will is attached.*
- iii. *After the death of Smt. Bhagwati Devi on 03-01-2022, Vijay Kumar, exploiting the situation, forged the will and manipulated documents to transfer the entire area of 0.11 hectares (1328.34 square yards) of Khasra No. 2303/4 to his name, instead of the 500.4 square yards mentioned in the will. This was done in collusion with the Halka Patwari and the Revenue Inspector, and the Tehsildar of Bhinnmal approved this transfer on 29-04-2022. A copy of the name transfer is attached.*
- iv. *The Halka Patwari and Revenue Inspector were aware that the will only covered 500.4 square yards from the old Khasra No. 2303/4. However, Vijay Kumar manipulated the documents to reflect the entire area of 0.11 hectares. This action was contrary to the legal provisions and the genuine contents of the will.*
- v. *Vijay Kumar, exploiting Smt. Bhagwati Devi's age and weakened state of mind, initially prepared and registered a will for 500.4 square*

yards. After her death, he conspired with Prahlad, son of Nagji, resident of Rodo Ki Dhani, to fraudulently transfer the entire 0.11-hectare area in Khasra No. 2303/4 to his name by falsifying documents. Prahlad, who was aware of the fraudulent nature of the will, helped Vijay Kumar in this process.

- vi. On discovering this, I confronted Vijay Kumar and Prahlad, accusing them of using a fraudulent will and manipulating the records for an illegal name transfer. Both individuals responded shamelessly, stating that they had done what they intended and were not concerned about my objections.
- vii. Thus, Vijay Kumar, Prahlad, the Halka Patwari, and the Revenue Inspector have collectively committed an illegal act by transferring my ancestral land through fraudulent means. I request that a case be filed and appropriate action be taken.”



28.2. The contents of the FIR (reproduced above) are self-speaking and even if the allegations made therein are taken as gospel, ex-facie no offence seems to be have been made out.

28.3. FIR was registered under sections 420/406/467/468/471 and 120-B of IPC. Let us analyze the FIR allegations, vis-à-vis the corresponding sections of the IPC invoked therein, in the succeeding sub paras.

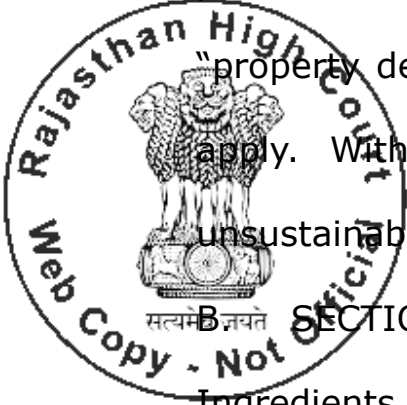
A. SECTION 420:-

Ingredients of section 420 are missing as there is no allegation in FIR-

- i) that complainant was dishonestly induced to deliver any property to the petitioner or to any body else at the petitioner's instance.
- ii) what valuable security or document made, altered or destroyed by the petitioner and how;

Section 420 since requires that the accused dishonestly induce someone to deliver property or alter a valuable security. However, the FIR does not allege that Satish Kumar (the complainant) was induced to deliver any property to Vijay Kumar. There is also no

allegation of a "valuable security" being made, altered, or destroyed by the petitioner. The FIR only states that Vijay Kumar manipulated the Will and property records "after" the death of Smt. Bhagwati Devi. There is no act of inducement towards the complainant or anyone else while the property was in their possession. The legal elements of "dishonest inducement" and "property delivery" are missing, which means Section 420 cannot apply. Without these core ingredients, the charge is legally unsustainable.



SECTION 406 :-

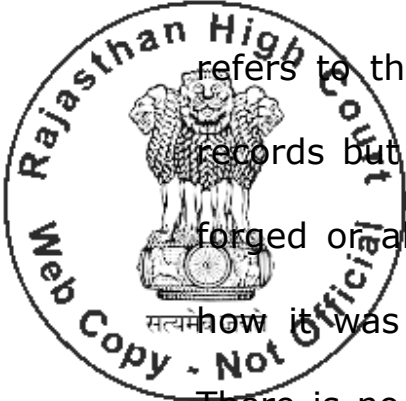
Ingredients of section 406 are also missing as there is no allegation in FIR for entrustment of property.

Moreover, Section 406-420 are mutually antithetical. In 406 entrustment of property is essential, while in 420, property is obtained by dishonest inducement and cheating, which is otherwise than entrustment.

Section 406 requires that property be entrusted to someone, and then misappropriated or misused. However, the FIR does not allege any entrustment of property to Vijay Kumar or any of the other accused. For a charge of criminal breach of trust, there must be a specific act of giving property to someone with an expectation of proper handling, which is then violated. Here, no such entrustment is mentioned. The property in question was part of a Will, not something that was entrusted to Vijay Kumar by Satish Kumar. In fact, the relationship between the complainant and the accused, as described, does not meet the *sine qua non* of "entrustment." Without this, Section 406 cannot be invoked.

C. SECTIONS 467/468 :-

There are absolutely no particulars and ingredients in the FIR qua the forgery of Will or record for transfer of property to the petitioner. Sections 467 and 468 deal with forgery of valuable documents and records, but the FIR lacks specific details that would satisfy the essential elements of these offenses. The FIR refers to the Will as "fake" and claims manipulation of property records but does not provide specific details of how the Will was forged or altered. It fails to describe who forged the document, how it was forged, or what specific part of the Will was false.



There is no evidence or allegation that Vijay Kumar "created the Will through forgery". The FIR only asserts manipulation after the Will was created, which does not constitute forgery under Sections 467 or 468 IPC. "Clear and specific allegations" are required to sustain a forgery charge, and a vague reference to a "fake Will" does not meet the legal standard necessary to justify these charges.

D. SECTION 471:-

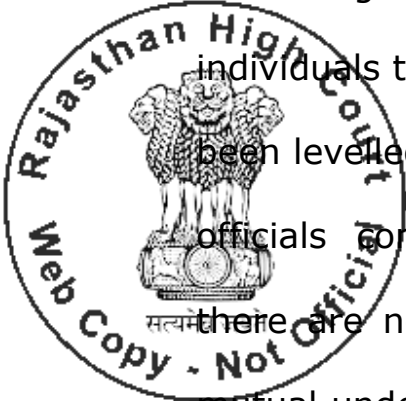
When ingredients of forgery are missing, there is no question of commission of offence of using forged documents. Section 471 requires that a forged document is knowingly used as genuine. However, the FIR fails to establish that the Will was forged in the first place. In the absence of ingredients of forgery, there is no basis for claiming that forged document was used. As already stated, allegations qua "fake Will" do not indicate as to how the Will was fraudulently altered or falsified in a manner that makes it legally invalid.

E. SECTION 120-B:

Commission of any of the predicate principal offences is not disclosed in FIR. No question would, therefore, arise of the petitioners being a party to conspiracy for commission of any offence. The FIR alleges a conspiracy to defraud, but there is no clear allegation of coordination or agreement between the accused individuals to commit an illegal act. Mere omnibus allegations have been levelled. The FIR claims that Vijay Kumar, Prahlad, and public officials conspired to fraudulently transfer property. However, there are no concrete allegations showing a prior agreement or mutual understanding to commit a crime, which is necessary for a charge under Section 120-B. A mere assertion of conspiracy without supporting material of coordinated actions is not enough to establish the offense. Even an allegation of circumstantial evidence of a meeting of minds, is lacking in this case.

CONCLUSION

29. To sum up, the vague and unsupported nature of the accusations are combined with the fact that the dispute in the FIR primarily revolves around the interpretation of a Will and property rights, which is a civil matter rather than a criminal one. The core of the complaint is about the distribution of property following the death of Smt. Bhagwati Devi. Such disputes are to be resolved through civil litigation over inheritance rights, rather than through criminal charges. Criminal law cannot be used to settle civil disputes. FIR in hand seems like an attempt to escalate a family property dispute into a criminal case.



30. In the premise, while on one hand, the allegations in the FIR do not satisfy the essential legal elements of the offenses charged under Sections 420, 406, 467, 468, 471, and 120-B IPC, on the other hand, continuing the FIR would subject the petitioners to unnecessary harassment, humiliation, and hardship. It would also waste judicial resources and state prosecution machinery on what is essentially a civil matter. The continuation of criminal proceedings would thus be an abuse of legal process.

31. As an upshot, it seems a fit case for invoking the inherent jurisdiction to prevent abuse of the process of court/law and to secure the ends of justice.

32. Resultantly, the petition is allowed. FIR No. 0299/2024 dated 27.07.2024 under Sections 420, 406, 467, 468, 471 and 120-B of the I.P.C registered at Police Station Bhinmal, District Jalore and consequential proceedings are quashed.

33. Pending application, if any, stands disposed of.

(ARUN MONGA),J

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