2026:AHC:120677-DB

A.F.R.
Reserved on 10.04.2026
Delivered on 26.05.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 23655 of 2025

Arjunpreet Singh Sahni

…..Petitioner(s)

Versus

State of U.P. and 3 others

…..Respondent(s)

Counsel for Petitioner(s)	:	Kanchan Sharma, Prashant Vyas, Sr. Advocate
Counsel for Respondent(s)	:	G.A., Nitin Chandra, Shashank Pandey

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Connected with

CRIMINAL MISC. WRIT PETITION No. - 23649 of 2025

M/s Prasandi Infotech Park Private Limited and another

…..Petitioner(s)

Versus

State of U.P. and 3 others

…..Respondent(s)

Counsel for Petitioner(s)	:	Anubhav Singh, Kanchan Sharma, Prashant Vyas, Sr. Advocate
Counsel for Respondent(s)	:	G.A., Nitin Chandra, Shashank Pandey

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Connected with

CRIMINAL MISC. WRIT PETITION No. - 25666 of 2025

Harjeet Singh Sahani

…..Petitioner(s)

Versus

State of U.P. and 2 others

…..Respondent(s)

Counsel for Petitioner(s)	:	Anubhav Singh
Counsel for Respondent(s)	:	G.A., Nitin Chandra

In Chamber

HON'BLE CHANDRA DHARI SINGH, J.
HON'BLE DEVENDRA SINGH-I, J.

Per: Hon’ble Chandra Dhari Singh,J.

Factual Matrix

1. All the aforesaid writ petitions arise out of the same factual background and challenge the same First Information Report (hereinafter “FIR”), namely Case Crime No. 227/2025, registered on 03.10.2025 at Police Station - Knowledge Park, District Gautam Budh Nagar, under Sections 406, 420, 467, 468, 469, 471 and 120-B of the Indian Penal Code, 1860. Since the allegations levelled in the impugned FIR, the nature of the transactions involved, the parties against whom accusations have been levelled, and the legal issues raised in the petitions are substantially common and interconnected, all the petitions were heard together and are being decided by this common judgment.

2. The present batch of petitions has been filed by different accused persons/entities arrayed in the aforesaid FIR. ***Criminal Misc. Writ Petition No. 23655/2025*** has been filed by the petitioner namely Sh. Arunpreet Singh Sahni, who has been described in the FIR as owner/director of the Solitarian Group and also connected with M/s Prasandi Infotech Park Private Limited as Additional Director. ***Criminal Misc. Writ Petition No. 23649/2025*** has been instituted by the petitioners namely M/s Prasandi Infotech Park Private Limited (petitioner no.1) along with Sh. Rajkumar Sisodiya (petitioner no.2) himself. ***Criminal Misc. Writ Petition No. 25666/2025*** has been filed by the petitioner namely Sh. Harjeet Singh Sahani, who has also been named as an accused in the impugned FIR and has been alleged to be associated with the affairs and management of the project in

question. All the petitioners are named accused persons in the impugned FIR.

3. The background of the matter is that the FIR in question came to be lodged at the instance of respondent no. 4/informant/complainant Dr. Gurpreet Singh. The FIR alleges commission of offences by the petitioners and several other accused persons in relation to a commercial real estate project known as "I.T. Square", situated at Plot No. 21, Knowledge Park-III, Greater Noida, Gautam Budh Nagar. The allegations broadly pertain to inducement, collection of money under an assured return scheme, non-delivery of possession of the allotted commercial unit, execution/non-execution of sale/sub-lease documents, alleged fabrication of allotment related documents and alleged cheating in relation to a unit stated to be Shop No. 12 situated at Tower-D, Ground Floor of the project.

4. The record further discloses a detailed chronology regarding the manner in which the project originally commenced (launched and operated by a Company namely "Era"), the subsequent changes in ownership/management, and the eventual entry M/s Prasandi Infotech Park Private Limited and thereafter, the Solitarian Group, into the affairs of the project.

5. The record also shows that on 31.05.2015, in the midst of the aforesaid management structure, the alleged transaction relating to Shop No. D/GF-12 took place in the name of Prasandi. The petitioners have specifically pleaded that even at that stage, the affairs of the company were under the management of SREI Infrastructure Finance Limited/Bharat Nirman Fund and not under Solitarian.

6. The next major development reflected in the record concerns the incorporation and subsequent entry of Solitarian. It

has been pleaded that Solitarian Buildinfra Private Limited was incorporated on 18.08.2015. The petitioners have further stated that Arunpreet Singh Sahni was associated with Solitarian and that Solitarian Group entered into the management structure of Prasandi only much later, namely around August, 2023.

7. According to the pleadings, after entering into the management in August, 2023, Solitarian allegedly executed a debt restructuring arrangement in March, 2024 and thereafter acquired 100% shareholding/control from Bharat Nirman Fund on 09.04.2024. The petitioners have also alleged that despite repayment of the restructured debt by September, 2024 and issuance of No Objection Certificates in November, 2024, several statutory records and company records were either not handed over properly or only partially transferred by Bharat Nirman Fund, thereby leaving several records untraceable.

8. The petitioners have thus attempted to portray a long and layered commercial history of the project spanning multiple entities and management transitions, namely:

(i) initial launch and development by Era Engineering Innovations/Era Landmarks Limited in 2008;

(ii) transfer/association of the project with Prasandi Infotech Park Private Limited;

(iii) takeover of shareholding and financial control by SREI Infrastructure Finance Limited/SREI Alternative Investment Trust/Bharat Nirman Fund pursuant to restructuring arrangements between 2014 and 2015; and thereafter

(iv) eventual entry and takeover of management by the Solitarian Group in the years 2023-2024.

9. It is in the backdrop of the aforesaid corporate and managerial transitions that the rival allegations have arisen between the complainant and the accused persons regarding the allotment, consideration, execution of documents and existence/non-existence of Shop No. 12 in the "I.T. Square" project as well as the dispute regarding execution of the allotment letter of Shop No. 12.

10. As emerging from the FIR, the case is that on 31.03.2008, the complainant booked three commercial units/shops bearing Nos. 5, 6 and 7 situated at Tower-D, Ground Floor under a discounted cash down plan for a total sale consideration of Rs.1,17,76,050/-. The booking was allegedly made at the rate of Rs.3,510/- per square foot and, according to the informant, the entire amount stood paid. It is alleged that possession was promised to be delivered by 03.01.2009.

11. The FIR further alleges that under the Builder Buyer Agreement dated 31.03.2008, particularly Clause-C thereof, the complainant was assured monthly returns of Rs.1,99,901/- for a period of 36 months after deduction of TDS. According to the informant, only partial assured returns were paid and thereafter payment of assured returns amounting to approximately Rs.35,46,900/- was discontinued. The complainant alleged that when he approached the office of the company, he was informed that the project, though proposed to be completed in the year 2009, was still incomplete and consequently assured returns were not being released.

12. The FIR then narrates that after the complainant protested and raised objections regarding non-payment and delay in possession, certain representatives/directors including one Sh. Atul Bhalla and Sh. Ganesh Prasad Badri allegedly proposed

allotment of another commercial unit namely Shop No. 12 admeasuring approximately 948 sq. ft. situated at Tower-D, Ground Floor, in lieu of the assured return component. It is alleged that the value of Shop No. 12 was fixed at Rs.44,55,600/- and payments towards the said shop were made by the complainant through various cheques issued between 12.05.2015 and 30.10.2015. The FIR specifically mentions cheque numbers and amounts allegedly paid by the complainant.

13. It is further alleged that on 13.05.2015, allotment letter, payment plan and site plan in relation to Shop No. 12 were handed over to the informant and, on the same date, five cheques of Rs.1,50,000/- each and one cheque of Rs.1,58,700/- were taken from him towards alleged brick and glass work. The FIR specifically alleges that cheque bearing No. 179010 amounting to Rs.1,58,700/- was deposited and encashed without the consent of the complainant.

14. According to the FIR, e-mails dated 05.09.2016 and 09.09.2016 were exchanged with one Sh. Sumit Sahu wherein assurances were allegedly extended that construction/brick work relating to Shop No. 12 would soon be completed and documents would thereafter be furnished. The complainant has alleged that despite passage of time, construction remained incomplete and when he inspected the site, he allegedly found that instead of the promised shop, a coffee shop was functioning at the site.

15. The FIR further alleges that in the meantime the Solitarian Group had taken over the project and that Sh. Arunpreet Singh Sahni, who is stated to be owner/director of the Solitarian Group, was also associated with the petitioners' company. It is alleged that in April, 2022 the complainant was informed that the area of Shop No. 12 had increased to approximately 975 sq. ft. and that

additional amount would therefore be payable. Thereafter, on 16.04.2022, an allotment letter/document was allegedly issued mentioning enhanced area, adjustment of assured returns and other financial calculations.

16. The FIR further records that the revised valuation of the shop was stated to be Rs.48,48,041/-, out of which pending assured returns amounting to Rs.35,46,900/- and the cheque amount of Rs.1,58,700/- were adjusted, leaving a balance amount of Rs.11,42,441/-. According to the FIR, cheque bearing No. 445107 amounting to Rs.11,42,441/- was subsequently handed over to Sh. Rajkumar Sisodiya and the amount was debited from the account of the informant on 06.05.2022.

17. The complainant has also alleged that on 08.04.2022, an e-mail was sent by the Solitarian Group stating that Shop No. 12 was being sold by the Solitarian Group and that money was being received by them. It is then alleged that though sub-lease deeds in respect of Shop Nos. 5, 6 and 7 were executed in the year 2022, the sale/sub-lease deed relating to Shop No. 12 was not executed despite repeated requests. The complainant alleges that one Sh. Naresh Kumar Khetan informed him that a certain balance amount was still outstanding and therefore execution of sale deed could not be undertaken.

18. The FIR also alleges that despite receiving a total amount of Rs.48,48,041/-, the accused persons failed to execute the sale deed in respect of Shop No. 12. It is further alleged that after the death of the complainant's father, when the complainant again visited India in March, 2025 for execution of the sale deed, one Ms. Anamika Dogra, General Manager of the Solitarian Group, demanded a further amount of Rs.23,35,809/- towards registration and other alleged charges. Reference is also made to

an e-mail dated 22.04.2025 demanding additional amounts towards holding charges, delayed payment charges and CAM charges.

19. The FIR further states that when the complainant approached Greater Noida Authority to verify the status of the unit, he allegedly came to know that no sanctioned plan existed in relation to Shop No. 12 and that the location allegedly shown as Shop No. 12 was in fact a common passage/common area situated at the Ground Floor. It is further alleged that the said unit existed only on paper and that the accused persons had cheated the informant by selling a non-existent unit.

20. On the basis of the aforesaid allegations, the impugned FIR dated 03.10.2025 came to be registered against the present petitioners and several other named persons including Sh. Atul Bhalla, Sh. Ganesh Prasad Badri, Sh. Naresh Kumar Khetan, Sh. Sumit Sahu, Sh. Raj Kumar Sisodiya, Sh. Harjeet Singh Sahani, Sh. Arunpreet Singh Sahni, representatives of Solitarian Group and others.

21. The petitioners, however, have disputed the allegations in entirety and have asserted that the dispute is essentially civil/commercial in nature arising out of real estate transactions and contractual obligations.

22. The pleadings further disclose that M/s Prasandi Infotech Park Private Limited had availed financial assistance from SREI entities and, upon alleged financial defaults, the management and shareholding structure underwent substantial changes over a period of time. It has been stated that SREI Infrastructure Finance Limited and Bharat Nirman Fund (BNF) came to acquire and control the management of the company and that the

Solitarian Group entered into the management only in or around August, 2023 pursuant to restructuring arrangements.

23. The petitioners have specifically pleaded that several of the acts alleged in the FIR pertain to periods when the present petitioners were not in control of the company or the project. It has further been pleaded that the allotment letter dated 16.04.2022 relied upon by the complainant was unsigned and unenforceable and did not bear signatures of authorized representatives. The petitioners have also asserted that Sh. Harjeet Singh Sahani had resigned from the directorship of Solitarian prior to registration of the FIR and that he was neither employee, director nor shareholder at the relevant time. The petitioners have relied upon various documents including e-mails, allotment documents, MCA records, D-Mat holdings, reminders, sub-lease deeds among other documents in support of their case.

24. The aforesaid facts, emerging from the pleadings and documents filed in the connected petitions, constitute the broad factual matrix giving rise to the present batch of matters.

Submissions on behalf of the petitioners

25. The learned counsel appearing for the petitioners in all the connected petitions submitted that since all the present petitions arise out of the same factual matrix and challenge the same FIR, the petitions deserve to be heard and decided together by way of a common judgment. It was submitted that the allegations levelled in the impugned F.I.R. are substantially identical in nature and are directed against different persons connected with the management and affairs of the company at different points of time.

26. It was argued on behalf of the petitioners in ***Criminal Misc. Writ Petition No. 23649/2025***, namely M/s Prasandi Infotech Park

Private Limited through its authorized representative and petitioner no.2, that petitioner no.1 company was incorporated on 17.10.2001 under the provisions of the Companies Act, 1956 and was the lessee of Plot No. 21, Knowledge Park-III, Greater Noida by virtue of lease deed dated 20.03.2002. It was submitted that in the year 2008, ERA Landmarks Ltd., subsequently known as ADEL Landmarks Ltd., launched a commercial project under the name and style of "IT Square" over the said leased property and under the understanding between the parties, ERA/ADEL had absolute development and marketing rights over the project.

27. The petitioners further submitted that respondent no.4/complainant had originally booked three commercial units bearing Nos. D/GF-05, D/GF-06 and D/GF-07 in the aforesaid project on 31.03.2008 at discounted rates and the complainant had been assured returns in respect of the said units. It was argued that possession of the said units had already been offered to the complainant on 20.02.2012 and reminder letters dated 08.06.2012 were also issued requesting the complainant to clear outstanding dues and complete necessary formalities. Learned counsel submitted that despite the offer of possession, the complainant got the sub-lease deeds executed only on 25.11.2022 after more than ten years.

28. It was next contended that during the years 2006-07 and thereafter till 2013-14, ERA/ADEL became the majority and subsequently the sole shareholder of petitioner no.1 company. The learned counsel referred to annual returns and shareholding documents filed along with the supplementary affidavits to contend that the entire control, management and day-to-day affairs of petitioner no.1 company were being managed by ERA/ADEL and thereafter by SREI Infrastructure Finance Limited (SIFL) and Bharat Nirman Fund (BNF). It was submitted that

petitioner no.1 company had availed financial assistance from SREI Infrastructure Finance Limited to the extent of approximately Rs.300 crores and on account of financial restructuring, the entire shareholding together with management rights stood transferred to SREI/BNF pursuant to Share Purchase Agreement dated 30.12.2014.

29. Learned counsel for the petitioners further argued that from the year 2015 till March, 2024, the entire management, control and operational affairs of petitioner no.1 company remained with SREI Infrastructure Finance Limited and Bharat Nirman Fund and thereafter Solitarian Group entered into the management of the company in August, 2023 and subsequently acquired 100% shareholding on 09.04.2024 pursuant to restructuring arrangements. It was thus submitted that the petitioners against whom criminal liability has now been fastened were not in control of the affairs of the company during the relevant period when the alleged transactions took place or when the alleged documents were executed.

30. It was specifically submitted on behalf of petitioner no.1 in ***Criminal Misc. Writ Petition No. 25666/2025***, namely Sh. Harjeet Singh Sahani, who has been arrayed as accused in the impugned F.I.R., that he had already resigned from the Directorship/management of Solitarian on 30.06.2025, much prior to lodging of the impugned F.I.R. dated 03.10.2025. Learned counsel submitted that the only allegation against the said petitioner is that he, along with two other persons, had informed respondent no.4/complainant regarding possession related aspects and such allegation, even if accepted on its face value, does not disclose commission of offences punishable under Sections 406, 420, 467, 468, 469, 471 or 120-B of the IPC.

31. Learned counsel appearing for petitioner Sh. Arjunpreet Singh Sahani in ***Criminal Misc. Writ Petition No. 23655/2025*** submitted that the said petitioner has falsely been implicated merely because he was associated with the Solitarian Group at a later stage. It was argued that the petitioner had no role whatsoever in the original allotment of units in favour of respondent no.4/complainant in the year 2008, nor was he connected with the alleged representations made at the time of booking of the units. It was submitted that the entire dispute pertains to commercial transactions arising out of allotment of commercial units in a real estate project and no element of criminality is made out against the said petitioner.

32. The petitioners jointly contended that the allegations contained in the impugned F.I.R. essentially arise out of contractual and commercial obligations between the parties concerning allotment, possession, assured returns and execution of sub-lease deeds and the same at best constitute a civil dispute for which appropriate civil remedies are available. Learned counsel submitted that respondent no.4/complainant had accepted possession and had also entered into sub-lease deeds in respect of the allotted units, thereby acknowledging the subsisting contractual relationship between the parties. It was argued that the dispute relating to alleged non-payment of assured returns, adjustment of dues, possession and execution of documents cannot be converted into a criminal prosecution merely to exert pressure upon the petitioners.

33. It was further argued that the allegations of forgery and fabrication are wholly vague, bald and unsupported by any material particulars. Learned counsel submitted that even according to the petitioners, the alleged allotment letter/document dated 16.04.2022 relied upon by the complainant

does not bear signatures of the petitioners and therefore, the same cannot legally be attributed to them. It was submitted that even assuming such a document exists, the same was allegedly issued during the period when the affairs of the company were under the management and control of SIFL/BNF and not under the petitioners. Hence, ingredients of offences under Sections 467, 468, 469 and 471 of the IPC are not made out against the present petitioners.

34. The learned counsel further submitted that the impugned F.I.R. suffers from gross and unexplained delay. It was argued that the transactions in question pertain to the period commencing from the year 2008, possession had admittedly been offered in the year 2012 and various communications had been exchanged between the parties over the years, yet the impugned F.I.R. came to be lodged only on 03.10.2025 after an inordinate lapse of time. It was contended that such abnormal delay clearly demonstrates that the criminal proceedings have been initiated with ulterior motives and only as a pressure tactic in relation to an old commercial dispute.

35. It was also submitted that respondent no.4/complainant had throughout remained aware of the status of the project, the management changes and the possession related communications. The petitioners referred to various reminder letters, e-mails and allotment related documents annexed with the writ petitions and supplementary affidavits to contend that there had been continuous interaction between the parties and therefore the allegations of cheating from inception are inherently improbable.

36. Learned counsel for the petitioners further argued that essential ingredients of the offence under Section 420 IPC are

completely absent inasmuch as there was no dishonest intention at the inception of the transaction. It was submitted that the project was in fact developed, units were allotted, possession was offered and sub-lease deeds were eventually executed, which itself demonstrates that the dispute relates to performance of contractual obligations and not to any fraudulent inducement from the very beginning. It was argued that mere breach of contractual terms or non-fulfilment of commercial expectations cannot give rise to criminal prosecution in absence of fraudulent or dishonest intention at inception.

37. It was next contended that no entrustment of property in the manner contemplated under Section 405 IPC has been pleaded or established and therefore offence under Section 406 IPC is also not attracted. Learned counsel submitted that the monies paid by respondent no.4/complainant were paid pursuant to contractual arrangements under commercial allotment transactions and the same cannot be treated as entrustment for the purposes of criminal breach of trust.

38. The petitioners also argued that the allegations contained in the impugned F.I.R. are unsubstantiated and there is no specific role attributed individually to each of the accused persons. It was submitted that different petitioners were connected with the company at different stages and periods, however the complainant has mechanically implicated all of them without disclosing any specific overt act attributable to each accused. It was argued that such sweeping allegations without distinct particulars are legally insufficient to sustain criminal prosecution.

39. Learned counsel further submitted that the present proceedings are manifestly attended with *mala fide* and have been instituted maliciously with an ulterior motive for wreaking

vengeance and coercing the petitioners in relation to a long-standing commercial dispute. It was argued that the criminal process is being misused as a tool for recovery and settlement of monetary claims arising out of contractual transactions.

40. It was also specifically submitted on behalf of petitioner no.2 in ***Criminal Misc. Writ Petition No. 23649/2025*** that Sh. Rajkumar Sisodia had been falsely implicated despite not being concerned with the original transaction of 2008 and despite the fact that the relevant affairs of the company were being managed by different entities over different periods. Similarly, on behalf of petitioner Sh. Arjunpreet Singh Sahani in ***Criminal Misc. Writ Petition No. 23655/2025*** and petitioner Sh. Harjeet Singh Sahani in ***Criminal Misc. Writ Petition No. 25666/2025***, it was submitted that they have been implicated merely because of their subsequent association with Solitarian Group and no material has been brought on record to demonstrate their involvement in the original inducement or execution of the alleged forged documents.

41. The petitioners have further submitted that the entire controversy, even as per the own case of the informants, substantially pertains to contractual and allotment disputes arising out of commercial agreements executed between the parties and therefore the matter is fundamentally civil and arbitrable in nature. It has specifically been argued that the agreement dated 16.04.2022 and other agreements pertaining to any of the allotment, relied upon by the informant itself, contains an *arbitration clause at 'Clause 7 of Heading X'* of the allotments letters, thereby, governing disputes inter se the parties. The petitioners have thus contended that once the parties consciously agreed to a contractual dispute resolution mechanism, invocation of criminal machinery for enforcement of alleged contractual

obligations is wholly impermissible. It has accordingly been urged that the FIRs are nothing but an attempt to convert a commercial dispute into a criminal prosecution for exerting pressure upon the petitioners.

42. The petitioners have further argued that the principal allotments originally made in favour of respondent no.4/complainant were with respect to three commercial units namely D/GF-05, D/GF-06 and D/GF-07 situated at Tower-D, Ground Floor in the "IT Square" project and not with respect to any fourth unit. It has been categorically argued that the aforesaid three units were booked on 31.03.2008 under a discounted cash down plan for a total consideration of Rs.1,17,76,050/-. According to the petitioners, possession of these three units had already been offered way back on 20.02.2012 and eventually sub-lease deeds in respect thereof were executed on 25.11.2022. It is thus contended that insofar as the original three units are concerned, the contractual relationship substantially stood concluded and therefore no criminal offence can be said to arise therefrom.

43. The petitioners have emphasized that the real dispute now sought to be projected in the FIR substantially revolves around the so-called "fourth unit" allegedly allotted to respondent no.4/complainant against adjustment of assured returns. According to the petitioners, since respondent no.4/complainant was demanding adjustment towards alleged assured returns, petitioner no.1 company proposed allotment of an additional commercial unit in lieu thereof. Consequently, vide allotment letter dated 13.05.2015, respondent no.4 was allegedly allotted one additional unit bearing Shop No.12 in Tower-D having an area of 948 sq. ft. in the subject project. It has been submitted that the total sale consideration reflected therein was Rs.44,55,600/-, out

of which adjustment of Rs.35,46,900/- towards alleged assured returns was proposed and the remaining amount was payable through cheques.

44. The petitioners have thus contended that the FIR itself demonstrates that the original three allotted units were delivered/offered possession long back and the entire surviving controversy is essentially confined to the disputed fourth alleged unit, whose very allotment, execution, validity, location and contractual status are seriously disputed by the parties. According to the petitioners, such issues can only be adjudicated upon by a competent civil forum or arbitral tribunal after appreciation of documentary evidence and cannot constitute the basis for criminal prosecution under Sections 406, 420, 467, 468, 471 and 120-B IPC.

45. On the aforesaid grounds, learned counsel for all the petitioners prayed that the impugned first information report dated 03.10.2025 registered as Case Crime No. 0227 of 2025 under Sections 406, 420, 467, 468, 469, 471 and 120-B IPC, Police Station Knowledge Park, District Gautam Budh Nagar, together with all consequential proceedings, be quashed by this Court in exercise of powers under Article 226 of the Constitution of India, as continuation of the criminal proceedings would amount to abuse of process of law.

Submissions on behalf of the respondents

46. *Per contra*, learned counsel appearing for the State as well as respondent no.4/complainant have vehemently opposed the writ petitions and have submitted that the impugned FIRs disclose commission of serious cognizable offences involving cheating, forgery, criminal breach of trust, fabrication of documents and conspiracy on the part of the petitioners and other accused

persons. It has been contended that the allegations cannot be brushed aside merely by describing the dispute as "civil" or "commercial" in nature, particularly when the accusations disclose dishonest intention, inducement, false representations and preparation of forged documents.

47. The respondents have submitted that the petitioners launched and marketed the project "IT Square" at Plot No.21, Knowledge Park-III, Greater Noida by holding out categorical assurances regarding allotment, possession, assured returns and execution of documents, thereby inducing innocent purchasers to invest substantial amounts. According to the respondents, the complainant booked commercial units after being lured by representations and assurances extended by the accused persons and huge sums were paid relying upon the promises made by them. It has been contended that despite receipt of substantial consideration, the accused persons deliberately failed to honour their commitments and instead adopted deceitful methods to avoid their liabilities.

48. The respondents have further argued that the petitioners cannot escape criminal liability merely by taking shelter under internal corporate arrangements between ERA/ADEL, SREI, Bharat Nirman Fund or Solitarian Group. According to the respondents, all the accused persons acted in concert and continuously represented themselves to be persons in control of the project and competent to deal with the allottees. It has been submitted that the subsequent change in shareholding pattern or transfer of management cannot absolve the accused persons of liability arising from fraudulent acts committed against purchasers.

49. It has specifically been argued by the complainant in *Criminal Misc. Writ Petition No.23649/2025* that petitioner no.2 Sh. Rajkumar Sisodia and petitioner no.1 company continued to actively participate in discussions, meetings and negotiations concerning the disputed unit and payments even during later periods. It has been alleged that petitioner no.2 played an active role in orchestrating transactions and induced the complainant to deposit additional amounts on assurances regarding allotment and adjustment of assured returns. According to the respondents, the active participation of the petitioners in negotiations and dealings clearly establishes their involvement in the alleged offences.

50. The respondents have further submitted that the controversy does not merely relate to delay in possession or breach of contractual obligations but concerns fraudulent creation and manipulation of documents. According to the respondents, forged allotment letters, fabricated documents and manipulated papers were prepared in order to mislead purchasers and to illegally retain their money. It has been argued that the genuineness, validity and authenticity of such documents can only be examined during investigation and trial and therefore the writ petitions seeking quashing at the threshold are wholly premature.

51. The respondents have also refuted the submission of the petitioners that possession had already been validly offered and delivered with respect to the original three units. According to the complainant, despite repeated assurances and demands, complete and lawful possession together with all rights was never actually handed over in a legally enforceable manner. It has been submitted that execution of sub-lease deeds at a highly belated stage after several years cannot wipe out the criminality attached to the conduct of the accused persons. The respondents contend

that prolonged withholding of possession and repeated false assurances demonstrate continuing dishonest intention on the part of the accused persons.

52. The respondents have further submitted that the dispute regarding the fourth unit cannot be trivialized by portraying it as a mere contractual adjustment dispute. According to them, the fourth unit was specifically allotted against adjustment of assured returns and other dues legitimately payable to respondent no.4 and the petitioners deliberately induced respondent no.4 to accept such arrangement while knowing fully well that they neither intended nor were capable of honouring the same. It has been argued that after extracting payments and obtaining continued confidence of respondent no.4, the accused persons subsequently denied the allotment itself and started disputing the very documents executed by them. According to the respondents, such conduct clearly discloses mens rea and ingredients of cheating and forgery.

53. The respondents have also denied the contention regarding discrepancies in tower identification being mere clerical or contractual inconsistencies. It has been argued that the conflicting descriptions of units, tower numbers and allotment particulars themselves demonstrate manipulation and fabrication of project records by the accused persons. According to the respondents, the inconsistencies are not innocent discrepancies but are indicative of fraudulent dealings requiring thorough investigation by the investigating agency.

54. So far as the arbitration clause is concerned, learned counsel for the respondents have submitted that existence of an arbitration clause or availability of civil remedies does not bar initiation of criminal proceedings where allegations prima facie

disclose commission of cognizable offences. It has been argued that civil liability and criminal culpability may coexist and merely because the parties are governed by contractual arrangements, the accused persons cannot seek immunity from criminal prosecution. According to the respondents, where allegations of forgery, cheating and criminal conspiracy are specifically made, the matter cannot be relegated exclusively to arbitration proceedings.

55. The respondents have further submitted that the petitions under Article 226 of the Constitution seeking quashing of FIRs deserve dismissal in view of the settled principles laid down by the Hon'ble Supreme Court in ***Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra***[1]***.*** It has been contended that at the stage of investigation the Court is only required to examine whether the FIR discloses commission of cognizable offences and not whether the allegations are ultimately likely to result in conviction. According to the respondents, disputed questions of fact, rival versions, genuineness of documents and defence pleas raised by the accused persons cannot be adjudicated in writ jurisdiction.

56. The State has additionally submitted that the investigation is at a nascent stage and substantial material is yet to be collected regarding execution of documents, financial transactions, role of various accused persons and movement of funds. It has therefore been argued that interference by this Court at this premature stage would seriously prejudice fair investigation into grave economic offences involving large financial implications.

57. The respondents have thus prayed that the writ petitions, being devoid of merits, be dismissed and the investigating agency be permitted to proceed with investigation in accordance with law without any interference by this Court.

1 2021 SCC OnLine SC 315

Analysis and Findings

58. The principal questions which arise for consideration are - *first*, whether the FIR and the materials relied upon by the complainant disclose, on their face, the ingredients of the offences under Sections 406, 420, 467, 468, 469, 471 and 120-B of the IPC against the present petitioners; *second*, whether the dispute is essentially civil/commercial in character; *third*, whether the role attributed to each petitioner is specific enough in law to justify continuation of criminal proceedings; and *fourth*, whether the continuation of the impugned proceedings would amount to abuse of process.

59. Since all the petitions arise from the same factual matrix, pertain to the same project namely "IT Square", Plot No.21, Knowledge Park-III, Greater Noida and involve substantially overlapping allegations and accused persons, they are being decided together by this common judgment.

60. The principles governing quashing of criminal proceedings are well settled. In ***State of Haryana v. Bhajan Lal***[2], the Hon'ble Supreme Court held that the High Court can exercise jurisdiction to quash where the allegations taken at face value do not constitute any offence, or where the criminal proceeding is ex facie with mala fide and instituted with an ulterior motive. The relevant paragraph of the same is as follows:

> *"**102.** In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise,*

2 1992 Supp (1) SCC 335

clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

61. In ***Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra (Supra)***, the Hon'ble Supreme Court reiterated the aforementioned principle of law regarding the quashing of the FIR and held that though investigation should not be stifled as a matter of routine, the Court must still see whether the FIR

discloses commission of a cognizable offence on the allegations made.

62. At the outset, it is equally well settled that a mere breach of contract does not give rise to criminal prosecution for cheating unless fraudulent or dishonest intention exists at the inception of the transaction. The distinction between mere contractual non-performance and criminal cheating has been repeatedly emphasized by the Hon'ble Supreme Court. Similarly, for criminal breach of trust under Section 406 IPC, there must be entrustment and dishonest misappropriation or conversion of entrusted property, and not a mere failure to honour a contractual obligation. As regards forgery, the law requires making of a false document or using a forged document as genuine with the requisite knowledge and intent, commercial disputes regarding validity or enforceability of allotment papers do not, by themselves, satisfy these ingredients.

63. On the civil-commercial character of disputes, the Hon'ble Supreme Court in ***A. Ayyasamy v. A. Paramasivam***[3]***,*** and in ***Avitel Post Studioz Ltd. v. HSBC PI Holdings (Mauritius) Ltd.***[4]***,*** recognized that ordinary allegations of fraud arising between parties to a commercial arrangement do not always take the matter outside the domain of civil or arbitral adjudication. These decisions underscore that every allegation of deception in a commercial setting does not automatically justify a criminal prosecution, especially where the dispute remains between parties and documentary.

64. Before adverting to deal with the contentions, it would be apposite to recapitulate the broad factual backdrop emerging from the pleadings and documents brought on record.

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3 (2016) 10 SCC 386
4 (2021) 4 SCC 713

65. The material available before the Court shows that petitioner no.1 in ***Criminal Misc. Writ Petition No.23649/2025*** namely M/s Prasandi Infotech Park Pvt. Ltd. became lease holder of Plot No.21, Knowledge Park-III, Greater Noida by virtue of lease deed dated 20.03.2002. Thereafter, in the year 2008, ERA Landmarks Ltd., subsequently renamed as ADEL Landmarks Ltd., launched a commercial project in the name and style of "IT Square" upon the aforesaid plot. The pleadings and documents placed before the Court further prima facie indicate that ERA/ADEL was entrusted with development and marketing rights of the project.

66. It is also not in dispute that respondent no.4/complainant initially booked three commercial units namely D/GF-05, D/GF-06 and D/GF-07 situated at Tower-D, Ground Floor in the said project under a discounted cash down plan for a total consideration of Rs.1,17,76,050/-. The material on record further reflects that possession in respect of the aforesaid three units had already been offered on 20.02.2012 and ultimately sub-lease deeds came to be executed on 25.11.2022. Therefore, insofar as the original three units are concerned, the admitted position emerging from the record is that the parties remained engaged in a continuing commercial relationship extending over several years.

67. This Court finds considerable significance in the fact that the present criminal proceedings do not substantially arise out of the original three units, but primarily revolve around the alleged "fourth unit", namely Shop No.D/GF-12, which admittedly did not form part of the original allotment made in the year 2008.

68. The records reveal that disputes subsequently arose between the parties with regard to alleged assured returns. According to the complainant himself, he was thereafter offered

another/additional unit in lieu of adjustment of assured returns and related claims. Thus, even according to the prosecution case, the alleged fourth unit emerged only during subsequent commercial negotiations, facilitation, and financial settlements between the parties.

69. The record indicates that vide the alleged allotment letter dated 13.05.2015, an additional unit allegedly bearing Shop No.12 in Tower-D admeasuring approximately 948 sq.ft. was proposed to be allotted in favour of the complainant against adjustment of assured returns amounting to Rs.35,46,900/- out of total alleged consideration of Rs.44,55,600/-. The remaining amount was allegedly payable through cheques. Thus, the entire genesis of the dispute *qua* the fourth unit itself arises out of adjustment/accounting arrangements concerning assured returns and reciprocal contractual obligations.

70. The aforesaid aspect assumes considerable importance because it demonstrates that the dispute is deeply embedded in contractual and financial dealings between the parties requiring examination of accounts, documentary evidence, reciprocal obligations and validity of allotment arrangements.

71. Even more significant is the fact that the allotment agreements/letters of all the original three units as well as the alleged agreement/document dated 16.04.2022 pertaining to Shop No.D/GF-12 itself contains an arbitration clause. *Clause 7 under Heading "X"* of the said agreement specifically contemplates reference of disputes to arbitration. Thus, the parties themselves consciously agreed that disputes arising from the said arrangement would be adjudicated through contractual dispute resolution mechanisms. The said Clause has been reproduced herein for reference:

> *"(7) In the event of any disputes or differences between the parties thereto arising out of the terms hereof or its scope, or interpretation, applicability etc, the same unless amicably settled shall be referred for arbitration. The sole arbitrator shall be appointed by the "LESSOR". The proceeding shall be held at Gautam Budh Nagar and the laws of the State of UP or as may be made applicable to the State of UP shall be applicable."*

72. This Court is conscious that mere existence of an arbitration clause does not by itself bar criminal proceedings. However, where the dispute substantially concerns enforcement of contractual rights, validity of allotment documents, adjustment of monetary liabilities, interpretation of agreements and entitlement arising from commercial arrangements, the existence of an arbitration clause becomes a relevant circumstance while examining whether the allegations genuinely disclose criminality or whether criminal law is being invoked to exert pressure in a civil dispute.

73. The Hon'ble Supreme Court in ***Indian Oil Corpn. v. NEPC India Ltd.***[5]***,*** observed that a given set of facts may give rise to both civil and criminal liability, but courts must guard against attempts to cloak purely civil disputes with criminal colour. Similarly, in ***IV.Y. Jose v. State of Gujarat***[6]***,*** the Hon'ble Supreme Court held that a contractual dispute should not be allowed to be converted into a criminal case unless clear ingredients of the alleged offences are disclosed. The relevant paragraph of ***NEPC India Ltd. (Supra)*** is as follows:

> *"**13.** While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable breakdown of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims,*

5 (2006) 6 SCC 736
6 (2009) 3 SCC 78

which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged. In G. Sagar Suri v. State of U.P. [(2000) 2 SCC 636 : 2000 SCC (Cri) 513] this Court observed: (SCC p. 643, para 8)

"It is to be seen if a matter, which is essentially of a civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which the High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this section has to be exercised to prevent abuse of the process of any court or otherwise to secure the ends of justice."

14. *While no one with a legitimate cause or grievance should be prevented from seeking remedies available in criminal law, a complainant who initiates or persists with a prosecution, being fully aware that the criminal proceedings are unwarranted and his remedy lies only in civil law, should himself be made accountable, at the end of such misconceived criminal proceedings, in accordance with law. One positive step that can be taken by the courts, to curb unnecessary prosecutions and harassment of innocent parties, is to exercise their power under Section 250 CrPC more frequently, where they discern malice or frivolousness or ulterior motives on the part of the complainant. Be that as it may.*

Section 405

21. *We will next consider whether the allegations in the complaint make out a case of criminal breach of trust under Section 405 which is extracted below:*

"405. Criminal breach of trust.—Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits 'criminal breach of trust'."

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23. *In Chelloor Mankkal Narayan Ittiravi Nambudiri v. State of Travancore Cochin [(1952) 2 SCC 392 : AIR 1953 SC 478 : 1954 Cri LJ 102] this Court held: (AIR p. 484, para 21)*

"[T]o constitute an offence of criminal breach of trust it is essential that the prosecution must prove first of all that the accused was entrusted with some property or with any dominion or power

over it. It has to be established further that in respect of the property so entrusted, there was dishonest misappropriation or dishonest conversion or dishonest use or disposal in violation of a direction of law or legal contract, by the accused himself or by someone else which he willingly suffered to do.

It follows almost axiomatically from this definition that the ownership or beneficial interest in the property in respect of which criminal breach of trust is alleged to have been committed, must be in some person other than the accused and the latter must hold it on account of some person or in some way for his benefit."

(emphasis supplied)

26. *The question directly arose for consideration in Central Bureau of Investigation v. Duncans Agro Industries Ltd. [(1996) 5 SCC 591 : 1996 SCC (Cri) 1045] It related to a complaint against the accused for offences of criminal breach of trust. It was alleged that a floating charge was created by the accused debtor on the goods by way of security under a deed of hypothecation, in favour of a bank to cover credit facility and that the said goods were disposed of by the debtor. It was contended that the disposal of the goods amounted to criminal breach of trust. Negativing the said contention, this Court after stating the principle as to when a complaint can be quashed at the threshold, held thus: (SCC pp. 607-08, para 27)*

"[A] serious dispute has been raised by the learned counsel … as to whether on the face of the allegations, an offence of criminal breach of trust is constituted or not. In our view, the expression 'entrusted with property' or 'with any dominion over property' has been used in a wide sense in Section 405 IPC. Such expression includes all cases in which goods are entrusted, that is, voluntarily handed over for a specific purpose and dishonestly disposed of in violation of law or in violation of contract. The expression 'entrusted' appearing in Section 405 IPC is not necessarily a term of law. It has wide and different implications in different contexts. It is, however, necessary that the ownership or beneficial interest in the ownership of the property entrusted in respect of which offence is alleged to have been committed must be in some person other than the accused and the latter must hold it on account of some person or in some way for his benefit. The expression 'trust' in Section 405 IPC is a comprehensive expression and has been used to denote various kinds of relationships like the relationship of trustee and beneficiary, bailor and bailee, master and servant, pledger and pledgee. When some goods are hypothecated by a person to another person, the ownership of the goods still remains with the person who has hypothecated such goods. The property in respect of which criminal breach of trust can be committed must necessarily be the property of some person other than the accused or the beneficial interest in or ownership of it must be in the other person and the offender must hold such property in

trust for such other person or for his benefit. In a case of pledge, the pledged article belongs to some other person but the same is kept in trust by the pledgee. In the instant case, a floating charge was made on the goods by way of security to cover up credit facility. In our view, in such case for disposing of the goods covering the security against credit facility the offence of criminal breach of trust is not committed."

(emphasis supplied)

Section 415

32. *The essential ingredients of the offence of "cheating" are: (i) deception of a person either by making a false or misleading representation or by other action or omission, (ii) fraudulent or dishonest inducement of that person to either deliver any property or to consent to the retention thereof by any person or to intentionally induce that person to do or omit to do anything which he would not do or omit if he were not so deceived and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property.*

35. *In Hridaya Ranjan Prasad Verma [(2000) 4 SCC 168 : 2000 SCC (Cri) 786] this Court held: (SCC pp. 176-77, paras 14-15)*

*"**14.** On a reading of the section it is manifest that in the definition there are set forth two separate classes of acts which the person deceived may be induced to do. In the first place he may be induced fraudulently or dishonestly to deliver any property to any person. The second class of acts set forth in the section is the doing or omitting to do anything which the person deceived would not do or omit to do if he were not so deceived. In the first class of cases the inducing must be fraudulent or dishonest. In the second class of acts, the inducing must be intentional but not fraudulent or dishonest.*

15. *In determining the question it has to be kept in mind that the distinction between mere breach of contract and the offence of cheating is a fine one. It depends upon the intention of the accused at the time of inducement which may be judged by his subsequent conduct but for this subsequent conduct is not the sole test. Mere breach of contract cannot give rise to criminal prosecution for cheating unless fraudulent or dishonest intention is shown right at the beginning of the transaction, that is, the time when the offence is said to have been committed. Therefore it is the intention which is the gist of the offence. To hold a person guilty of cheating it is necessary to show that he had fraudulent or dishonest intention at the time of making the promise. From his mere failure to keep up promise subsequently such a culpable intention right at the beginning, that is, when he made the promise cannot be presumed."*

Section 425

37. *Section 425 IPC provides:*

"425. Whoever, with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility, or affects it injuriously, commits 'mischief'."

The three ingredients of the section are: (i) intention to cause or knowledge that he is likely to cause wrongful loss or damage to the public or to any person; (ii) causing destruction of some property or any change in the property or in the situation thereof; and (iii) the change so made destroying or diminishing the value or utility or affecting it injuriously. For the purpose of Section 425, ownership or possession of the property is not relevant. Even if the property belongs to the accused himself, if the ingredients are made out, mischief is committed, as is evident from Illustrations (d) and (e) to Section 425. The complaints clearly allege that NEPC India had removed the engines thereby making a change in the aircrafts and that such removal has diminished the value and utility of the aircrafts and affected them injuriously, thereby causing loss and damage to IOC, which has the right to possess the entire aircraft. The allegations clearly constitute the offence of "mischief". Here again, we are not concerned with the proof or ultimate decision."

74. The relevant paragraph of ***V.Y. Jose v. State of Gujarat (Supra)*** has also been reproduced for reference:

26. *Recently, in Vir Prakash Sharma v. Anil Kumar Agarwal [(2007) 7 SCC 373: (2007) 3 SCC (Cri) 370] , noticing, inter alia, the aforementioned decisions, this Court held: (SCC p. 377, paras 13-16)*

"13. The ingredients of Section 420 of the Penal Code are as follows:

(i) Deception of any persons;

(ii) Fraudulently or dishonestly inducing any person to deliver any property; or

(iii) To consent that any person shall retain any property and finally intentionally inducing that person to do or omit to do anything which he would not do or omit.

No act of inducement on the part of the appellant has been alleged by the respondent. No allegation has been made that he had an intention to cheat the respondent from the very inception.

14. What has been alleged in the complaint petition as also the statement of the complainant and his witnesses relate to his subsequent conduct. The date when such statements were allegedly made by the appellant had not

been disclosed by the witnesses of the complainant. It is really absurd to opine that any such statement would be made by the appellant before all of them at the same time and that too in his own district. They, thus, appear to be wholly unnatural.

15. In law, only because he had issued cheques which were dishonoured, the same by itself would not mean that he had cheated the complainant. Assuming that such a statement had been made, the same, in our opinion, does not exhibit that there had been any intention on the part of the appellant herein to commit an offence under Section 417 of the Penal Code.

16. Furthermore, admittedly, their residences are in different districts. Whereas the appellant is a resident of the district of Ajamgarh, the respondent is a resident of the district of Rampur. Cheques were admittedly issued by the appellant at his place. There is nothing on record to show that any part of the cause of action arose within the jurisdiction of the court concerned. Even if such statements had been made, the same admittedly have been made only at the place where the appellant resides. The learned Magistrate, therefore, had no jurisdiction to issue the summons. (See Mosaraf Hossain Khan v. Bhagheeratha Engg. Ltd. [(2006) 3 SCC 658 : (2006) 2 SCC (Cri) 98])"

27. The said principle has been reiterated in All Cargo Movers (I) (P) Ltd. v. Dhanesh Badarmal Jain [(2007) 14 SCC 776 : (2007) 12 Scale 391] stating: (SCC p. 781, para 16)

"16. For the said purpose, allegations in the complaint petition must disclose the necessary ingredients therefor. Where a civil suit is pending and the complaint petition has been filed one year after filing of the civil suit, we may for the purpose of finding out as to whether the said allegations are prima facie correct, take into consideration the correspondences exchanged by the parties and other admitted documents. It is one thing to say that the Court at this juncture would not consider the defence of the accused but it is another thing to say that for exercising the inherent jurisdiction of this Court, it is impermissible also to look to the admitted documents. Criminal proceedings should not be encouraged, when it is found to be mala fide or otherwise an abuse of the process of the court. Superior courts while exercising this power should also strive to serve the ends of justice."

28. A matter which essentially involves dispute of a civil nature should not be allowed to be the subject-matter of a criminal offence, the latter being not a short cut of executing a decree which is non-existent. The superior courts, with a view to maintain purity in the administration of justice, should not allow abuse of the process of court. It has a duty in terms of Section 483 of the Code of Criminal Procedure to supervise the functionings of the trial courts.

29. An offence of cheating may consist of two classes of cases:

(1) Where the complainant has been induced fraudulently or dishonestly. Such is not the case here;

(2) When by reason of such deception, the complainant has not done or omitted to do anything which he would not do or omit to do if he was not deceived or induced by the accused.

75. A perusal of the afore-quoted portions of the judgments reveal that the Hon'ble Supreme Court has repeatedly cautioned against the growing tendency of converting purely civil and commercial disputes into criminal proceedings with a view to exert pressure upon the opposite party or to secure recovery/settlement through coercive criminal process. The consistent view of the Hon'ble Supreme Court is that criminal law cannot be permitted to be used as a substitute for civil remedies or as a short-cut for enforcement of contractual and commercial obligations, particularly where the dispute predominantly arises out of contractual terms, monetary claims, business arrangements, or alleged breach of reciprocal obligations.

76. It further emerges from the aforesaid decisions that while exercising jurisdiction for quashing of criminal proceedings, the Court is required to examine whether the allegations contained in the FIR/complaint, even if taken at their face value and accepted in their entirety, disclose the essential ingredients constituting the offences alleged. In the absence of foundational averments satisfying the statutory ingredients of the offences invoked, continuation of criminal proceedings would amount to abuse of the process of law warranting interference by the constitutional courts in exercise of their inherent/writ jurisdiction.

77. Insofar as the offence of cheating is concerned, the Hon'ble Supreme Court has consistently held that the *sine qua non* for attracting the offence is the existence of fraudulent or dishonest intention at the very inception of the transaction. Mere breach of contract, subsequent non-performance, or failure to honour

assurances subsequently would not, by itself, constitute the offence of cheating unless it is shown that the accused possessed dishonest intention from the very beginning at the time when the representation or promise was made. The distinction between a mere contractual breach and the offence of cheating, though fine, is nevertheless well recognised in law, and criminal liability cannot arise merely on account of failure to fulfil contractual obligations.

78. Likewise, for constituting the offence of criminal breach of trust, the essential requirement is entrustment of property or dominion over property coupled with dishonest misappropriation or conversion thereof in violation of law or contractual obligation. The Hon'ble Supreme Court has clarified that the property alleged to have been misappropriated must belong beneficially to a person other than the accused and must have been entrusted to the accused in a fiduciary or legally recognised capacity. In commercial transactions involving contractual arrangements, financial accommodations, or hypothecation/security interests, mere non-payment or disposal of secured assets, absent the essential ingredient of entrustment in the legal sense contemplated under Section 405 IPC, would not *ipso facto* constitute criminal breach of trust.

79. The aforesaid principles unequivocally demonstrate that where the dispute essentially pertains to performance of contractual obligations, settlement of accounts, commercial understandings, recovery of money, or alleged breach of terms governing a business transaction, and the necessary criminal intent or statutory ingredients are conspicuously absent from the allegations, permitting continuation of criminal proceedings would result in misuse of the criminal justice machinery. In such circumstances, the superior courts are duty-bound to exercise

their jurisdiction to secure the ends of justice and to prevent abuse of the process of Court.

80. Examining the allegations in the present case in light of the aforesaid principles, this Court finds that the foundational ingredients of the alleged offences are conspicuously absent.

81. So far as the offence under Section 420 IPC is concerned, the law is well settled that there must exist dishonest or fraudulent intention at the very inception of the transaction. Mere breach of promise, subsequent non-performance or failure to honour contractual obligations cannot amount to cheating unless it is shown that the accused possessed fraudulent intention at the time the representation was made.

82. In ***Hridaya Ranjan Prasad Verma***[7]***,*** the Hon'ble Supreme Court categorically held that distinction between mere breach of contract and the offence of cheating depends upon intention of the accused at the inception of the transaction.

83. Applying the aforesaid principles to the facts of the present case, this Court finds no material whatsoever indicating dishonest intention from inception. The initial allotments were made in the year 2008. Construction activities admittedly progressed. Possession of the three original units was admittedly offered on 20.02.2012. Sub-lease deeds came to be executed on 25.11.2022. The parties continued to engage in negotiations over several years. Assured returns were allegedly paid at least to some extent. Thereafter, the complainant himself allegedly agreed to adjustment of claims through allotment of another/additional unit. Such prolonged commercial dealings extending over years completely negate the allegation that the accused persons possessed fraudulent intention from the very inception.

7 (2000) 4 SCC 168

84. The entire dispute rather reflects continuing disagreements concerning performance of contractual obligations, adjustment of assured returns and validity of subsequent arrangements. Such disputes, by their very nature, fall within the domain of civil adjudication.

85. Likewise, the essential ingredients of Section 406 IPC are also not satisfied. Entrustment is the sine qua non for constituting an offence of criminal breach of trust. The FIRs do not disclose any entrustment in the legal sense. The money paid by the complainant was paid as consideration under commercial builder-buyer transactions. Mere non-delivery or delayed delivery of units cannot by itself constitute criminal breach of trust.

86. This Court is also of the view that mere breach of contractual obligations arising out of agreements to sell would not by itself attract criminal breach of trust unless specific entrustment and dishonest misappropriation are established.

87. The allegations under Sections 467, 468 and 471 IPC also do not withstand scrutiny at this stage. The dispute regarding the alleged fourth unit fundamentally turns upon validity and execution of documents dated 13.05.2015 and 16.04.2022. The petitioners have consistently disputed the authenticity and execution of the said documents and specifically pleaded that the agreement dated 16.04.2022 does not bear signatures of any authorized representative/director of petitioner no.1 company.

88. A perusal of the material placed before this Court further indicates that the said document appears to have been signed only from the side of the complainant and not by any authorized person of the management of petitioner no.1 company. Thus, whether the document was validly executed, whether it was acted upon, whether it creates enforceable rights and whether any

forgery was actually committed are all matters requiring detailed evidence and adjudication. Mere existence of disputed documents does not automatically establish offences of forgery against the petitioners before this Court.

89. Equally important is the issue regarding management and control of petitioner no.1 company during the relevant period.

90. The documents on record *prima facie* show that pursuant to restructuring arrangements and share transfer mechanisms, the control and management of petitioner no.1 company remained with SREI Infrastructure Finance Limited/Bharat Nirman Fund from the year 2015 till March, 2024.

91. Petitioner Sh. Harjeet Singh Sahani in ***Criminal Misc. Writ Petition No.25666/2025*** has specifically pleaded that he resigned from the directorship on 30.06.2025 whereas the FIR came to be lodged subsequently on 03.10.2025. The record further *prima facie* indicates that petitioner Sh. Arjunpreet Singh Sahni became associated with the management only subsequently after restructuring arrangements and takeover by Solitarian entities.

92. Thus, many of the documents and transactions now relied upon by the complainants pertain either to periods prior to induction of the petitioners before this Court or to periods when management and operational control vested elsewhere. In absence of specific allegations showing active participation coupled with criminal intent attributable to each accused person, sweeping criminal liability cannot be imposed merely on account of subsequent association with the company.

93. Pertinently, this Court also notes that other than the reference to arbitration clause, the complainant's grievances substantially fall within the framework of the *Real Estate (Regulation and Development) Act, 2016* (hereinafter "RERA").

Under Section 31 of the RERA Act, an aggrieved allottee possesses the statutory remedy of filing complaint before the Real Estate Regulatory Authority. Section 71 further contemplates adjudication regarding compensation and related grievances by the Adjudicating Officer. The legislature having created a specialized statutory mechanism for adjudication of disputes arising from real estate projects, disputes relating to delay in possession, contractual defaults, compensation and allied builder-buyer grievances ordinarily fall within the realm of civil/regulatory adjudication unless clear criminality is independently disclosed.

94. A bare perusal of the allegations levelled in the FIR/complaint would demonstrate that the substratum of the dispute pertains to alleged delay in completion of the project, non-delivery of possession within the stipulated timeline, alleged deviation from representations made at the time of booking, demands pertaining to payments/installments, dispute *qua* map/site plan/non existence of allegedly sold unit, and grievances concerning performance of obligations arising out of the Builder Buyer Agreement and the real estate project in question. Such disputes are intrinsically connected with the rights and obligations flowing from a real estate transaction and squarely fall within the regulatory framework contemplated under the RERA. The grievance of the complainant is essentially directed against the manner of execution and performance of the project and the contractual obligations undertaken by the developer/promoter, for which the statute itself provides a complete adjudicatory mechanism.

95. The legislative intent behind enactment of the RERA framework is to provide a specialised and sector-specific mechanism for adjudication of disputes between allottees and promoters/developers, particularly in relation to delay in

possession, refund claims, project completion obligations, disclosures, compensation and contractual defaults. The allegations in the present case, when holistically examined, substantially emanate from such builder-buyer and allotment related disputes.

96. In the considered opinion of this Court, merely because allegations of breach of assurances, delay, or non-fulfilment of contractual obligations have been made, the same would not *ipso facto* clothe the dispute with criminal colour in the absence of specific allegations disclosing fraudulent or dishonest intention from the inception of the transaction. Where the dominant nature of the dispute is regulatory, contractual and compensatory, and the statute itself creates an efficacious forum for redressal of such grievances, criminal proceedings ought not to be permitted to become a tool for arm-twisting or exerting pressure in matters essentially falling within the domain of civil and regulatory adjudication.

97. The respondents have repeatedly argued that the existence of civil remedies cannot bar criminal proceedings. There can be no quarrel with the said proposition. However, the equally settled principle is that criminal law cannot be permitted to become an instrument of pressure or harassment in disputes predominantly civil in character.

98. This Court is of the considered view that criminal proceedings should not be encouraged where the dispute is essentially civil and criminal courts should not be used for settling scores or exerting pressure in commercial disputes.

99. Therefore, taking into consideration the entirety of the matter, this Court is further of the opinion that the present case falls within the parameters illustratively laid down in ***State of***

Haryana v. Bhajan Lal (Supra). Even if the allegations contained in the FIRs are accepted at face value, the same primarily disclose civil and commercial disputes arising from real estate transactions, adjustment of assured returns and validity of allotment documents. The basic ingredients of offences under Sections 406, 420, 467, 468, 471 and 120-B IPC are not prima facie established against the petitioners before this Court.

100. The continuation of criminal proceedings in such circumstances would amount to abuse of the process of law.

Conclusion

101. This Court is conscious of the fact that every dispute arising out of a real estate transaction or every delay in completion of a project cannot *ipso facto* be permitted to assume the character of a criminal offence. The real estate sector inherently involves complex commercial, regulatory and financial considerations, and delays in execution of projects may occur on account of multiple factors including market downturns, liquidity constraints, regulatory approvals, force majeure circumstances, or other unforeseen contingencies affecting the viability and timelines of the project.

102. If every instance of delay in handing over possession, failure to adhere to projected timelines, or inability of a developer to immediately fulfil contractual commitments were to result in registration of criminal cases, the same would not only amount to criminalising commercial and contractual defaults but would also have serious adverse repercussions on legitimate business and commercial activity in the sector. Criminal law cannot be permitted to operate as a mechanism for enforcing contractual performance in ordinary commercial disputes, absent clear

allegations disclosing the requisite criminal intent and statutory ingredients of the offences alleged.

103. This Court also cannot lose sight of the hardship and inconvenience which may have been caused to the complainant on account of the alleged delay and non-fulfilment of expectations arising from the transaction in question. The grievances projected by the complainant may indeed entitle him to seek appropriate reliefs including refund, compensation, interest, possession-related directions, or other consequential remedies in accordance with law. However, such sympathy, by itself, cannot justify continuation of criminal prosecution where the essential ingredients constituting a cognizable criminal offence are otherwise not disclosed from the material placed on record. The complainant has efficacious civil and statutory remedies available under the governing contractual framework as well as under the provisions of the RERA Act and other competent forums, where appropriate relief in relation to the subject units and allied claims may be duly adjudicated and granted in accordance with law.

104. It is true that, as noted from the record, the investigation is still at a nascent stage and ordinarily this Court would be slow in interfering with criminal proceedings at the threshold. However, it is equally well settled that mere pendency of investigation cannot operate as an absolute bar against exercise of writ or inherent jurisdiction where the allegations contained in the FIR itself, even if accepted in their entirety, fail to disclose the essential ingredients of the alleged offences or where continuation of criminal proceedings would amount to abuse of process of law.

105. The power of judicial review is intended precisely to prevent misuse of criminal machinery in cases where disputes are overwhelmingly civil or commercial in nature. In the present case,

the foundational facts are substantially documentary and largely undisputed, namely the original allotment of three units in the year 2008, offer of possession on 20.02.2012, execution of sub-lease deeds on 25.11.2022, subsequent negotiations concerning assured returns and the alleged fourth unit, the existence of arbitration clause under Clause 7 of Heading "X" of the agreement dated 16.04.2022, as well as the shifting management structure of petitioner no.1 company during the relevant periods.

106. Therefore, even at this stage, the Court is not required to conduct a roving inquiry into disputed facts but only to examine whether the uncontroverted allegations *prima facie* disclose commission of cognizable offences.

107. Upon such examination, this Court finds that the dispute essentially arises from contractual and commercial arrangements relating to a real estate project and does not *prima facie* satisfy the ingredients of offences under Sections 406, 420, 467, 468, 471 or 120-B of the IPC *qua* the present petitioners. Consequently, merely because investigation is at a nascent stage would not justify relegating the petitioners to prolonged criminal proceedings which, in the facts of the present case, appear to be manifestly civil in character, rather, quashing of the FIR at this stage would prevent the misuse of the process of law.

108. Accordingly, all the connected writ petitions deserve to be ***allowed***.

109. In view thereof, impugned FIRs as well as all consequential proceedings arising therefrom are hereby quashed *qua* the petitioners.

110. It is made clear that the instant batch of petitions have been adjudicated on the basis of the pleadings brought before this Court and the observations made hereinabove shall not be

construed as expression on the merits, rights and contentions of the parties which they may seek to address or raise in other proceedings or before any other forum of law, in accordance with the law.

(Devendra Singh-I,J.) (Chandra Dhari Singh,J.)

May 26, 2026
Saurabh