SUPREME COURT OF INDIA REPORTABLE

Bench: Justices B.R. Gavai, Rajesh Bindal, and Sandeep Mehta

Date of Decision: 20th March 2024

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2024 (Arising out of SLP(Criminal) No. 9598 of 2022)

A.M. MOHAN …APPELLANT(S)

VERSUS

THE STATE REPRESENTED BY SHO AND ANOTHER RESPONDENT(S)

Legislation:

Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.)

Sections 420 and 34 of the Indian Penal Code, 1860 (IPC)

Subject: Appeal against the High Court's rejection of a petition under Section 482 Cr.P.C. to quash FIR registered for offences under Section 420 read with Section 34 IPC.

Headnotes:

Quashing of FIR and Charge-sheet – Criminal Appeal by A.M. Mohan against High Court order rejecting his petition to quash FIR for cheating – FIR lodged for offenses under Section 420 read with Section 34 IPC involving financial transactions and real estate deals – Supreme Court finds no role of inducement or dishonest intention attributed to appellant in FIR or charge-sheet – Held that continuing proceedings against appellant is abuse of process of law, resulting in miscarriage of justice - FIR and consequent charge-sheet against appellant quashed. [Paras 1-25]

Role of Accused in Cheating – Analysis – Held – finds no substantial evidence of intentional inducement or fraudulent behavior by the appellant in the transactions. Notes that transactions involving the appellant were straightforward and without deception, differing from the actions of co-accused. [Para 19-20]

Jurisdiction under Section 482 of Cr.P.C. – Application – Court reiterates principles for exercise of jurisdiction to quash criminal proceedings, emphasizing the need to avoid misuse of criminal proceedings in civil disputes and to prevent abuse of the process of law. [Para 9-11, 21-23]

Decision – Quashing of FIR and Charge-Sheet against Appellant – The Supreme Court quashes the FIR and the charge-sheet against the appellant, citing lack of evidence of his involvement in the alleged cheating and fraudulent transaction. The proceedings are deemed to be an abuse of the process of law with respect to the appellant. [Para 24-25]

Referred Cases:

- Anand Kumar Mohatta and Another v. State (NCT of Delhi), Department of Home and Another, (2019) 11 SCC 706 : 2018 INSC 1060
- Archana Rana v. State of Uttar Pradesh and Another, (2021) 3 SCC 751 : 2021 INSC 135
- Central Bureau of Investigation v. Duncans Agro Industries Ltd. [(1996) 5 SCC 591 : 1996 SCC (Cri) 1045]
- Deepak Gaba and Others v. State of Uttar Pradesh and Another, (2023) 3 SCC 423 : 2023 INSC 1
- G. Sagar Suri and Another v. State of U.P. and Others, (2000) 2 SCC 636 : 2000 INSC 34
- Haji Iqbal alias Bala through S.P.O.A. v. State of U.P. and Others, 2023 SCC OnLine SC 946 : 2023 INSC 688
- Hridaya Ranjan Prasad Verma v. State of Bihar [(2000) 4 SCC 168 : 2000 SCC (Cri) 786]
- Indian Oil Corporation vs. NEPC India Limited and Others, (2006) 6 SCC 736 : 2006 INSC 452
- Joseph Salvaraj A. v. State of Gujarat, (2011) 7 SCC 59 : (2011) 3 SCC (Cri) 23
- M. Krishnan v. Vijay Singh [(2001) 8 SCC 645 : 2002 SCC (Cri) 19]
- Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre [(1988) 1 SCC 692 : 1988 SCC (Cri) 234]
- Mariam Fasihuddin and Another v. State by Adugodi Police Station and Another, 2024 SCC OnLine SC 58 : 2024 INSC 49
- Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd. [(2000) 3 SCC 269 : 2000 SCC (Cri) 615]
- Prof. R.K. Vijayasarathy and Another v. Sudha Seetharam and Another, (2019) 16 SCC 739 : 2019 INSC 216
- Rajesh Bajaj v. State NCT of Delhi [(1999) 3 SCC 259 : 1999 SCC (Cri) 401]
- Rupan Deol Bajaj v. Kanwar Pal Singh Gill [(1995) 6 SCC 194 : 1995 SCC (Cri) 1059]

- State of Bihar v. Rajendra Agrawalla [(1996) 8 SCC 164 : 1996 SCC (Cri) 628]
- State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426]
- Umesh Kumar v. State of A.P., (2013) 10 SCC 591, para 20 : (2014) 1 SCC (Cri) 338 : (2014) 2 SCC (L&S) 237
- Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque [(2005) 1 SCC 122 : 2005 SCC (Cri) 283

J U D G M E N T

B.R. GAVAI, J.

1. Leave granted.

2. The present appeal challenges the order dated 15th July 2022 passed by the learned Single Judge of the High Court of Judicature at Madras in Criminal O.P. No. 20716 of 2020 and Crl. M.P. No. 8763 of 2020, whereby the High Court rejected the petition filed by the present appellant under Section 482 of the Code of Criminal Procedure, 1973 ("Cr.P.C." for short), to call for the records and to quash the First Information Report ("FIR" for short) registered as Crime No. 21 of 2020, on the file of SHO, District Crime Branch, Kancheepuram, in connection with the offence punishable under Section 420 read with 34 of the Indian Penal Code, 1860 ("IPC" for short).

FACTS

3. Shorn of details, the facts leading to the present appeal are as under:

3.1 The case of the prosecution is that, during the year 2016, accused No. 2-Suresh Prathaban, being a college friend, approached the complainant Karthick Krishnamurthy for some help to clear his hand loan. The accused No. 2 further told that he had business with accused No. 1Lakshmanan, who is running a hotel and also doing real estate business. Upon the insistence of accused No. 2, the complainant had agreed to extend financial help to accused No. 1 to the tune of Rs.1,60,00,000/- for the business project(s) at Oragadam and around Kancheepuram District with condition to repay the same within 20 months with 100% profit.

3.2 Accordingly, the complainant transferred a sum of Rs.49,25,000/- on 18th March 2016, Rs.20,01,000/- on 31st May 2016, Rs.36,25,000/-

on 13th June 2016, Rs.30,24,166/- on 8th July 2016 through RTGS and Rs. 24,25,834/- in cash to accused Nos. 1 and 2, totalling to the tune of Rs.1,60,01,000/- (though mentioned in complaint as Rs.1,60,00,000/-). To secure the same, accused No. 1 had executed a registered simple mortgage deed dated 18th March 2016 in favour of the complainant relating to 100 plots at Sumangali Village, Thiruvannamalai District, registered vide document No.768 of 2016 for Rs.1,00,00,000/-.

3.3 Thereafter, at the insistence of accused Nos. 1 and 2, the complainant entered into an unregistered memorandum of understanding and paid a sum of Rs.1,50,00,000/- and a further sum of Rs.50,00,000/- by RTGS and cheque to accused No. 1's bank. In the said amount, the complainant directly transferred a sum of Rs.20,00,000/- in favour of the present appellant-A.M. Mohan (accused No.3). Further, accused No.1 also transferred a sum of Rs.1,80,00,000/- to the present appellant for the purchase of the land admeasuring 9.80 acres situated at Chittoor Village, Sriperumbudur Taluk. To secure the said payment of Rs.2,00,00,000/- with returns of Rs.10,00,00,000/-, accused No. 1 executed a registered deed of General Power of Attorney ("GPA" for short) dated 3rd February 2017, in favour of the complainant, vide document No. 3733/2017, in respect of the above said land and also executed a registered sale deed relating to the land admeasuring 2.52 acres situated at Vellarai Village, Kancheepuram District vide document No.386/2017 dated 9th February 2017 in favour of the complainant.

3.4 The accused No. 1 also executed a mortgage deed for land admeasuring 2.14 acres at Sunguvarchatram Village (though mentioned in the complaint as 'a registered Agreement to Sell land admeasuring 1.64½ acres') in favour of the complainant registered vide document No.373/2017 dated 27th February 2017. Thereafter, accused Nos. 1 and 2 had received an amount of Rs.49,85,500/- and executed unregistered loan agreement dated 5th March 2017, in favour of the complainant and agreed to repay with interest quantified at Rs.60,000/- per month. For repayment of the said amount along with interest, accused No. 1 had given a cheque for Rs.58,50,000/- and the same was returned dishonoured due to insufficient funds.

3.5 Apart from all these transactions, on insistence of accused Nos. 1 and 2, the complainant joined in the "gold chit business" conducted by accused No. 1 and paid a sum of Rs.1,20,000/- per month, from March 2016 to August 2017, totalling to the tune of Rs.21,60,000/-. The accused persons swindled all the amounts and cheated the complainant. The accused No. 1

had disposed of about 58 plots on his own and failed to return the mortgaged amount of Rs.1,00,00,000/- with interest. He also cancelled the power of attorney standing in favour of the complainant relating to 9.80 acres of land at Chittoor Village and without notice to the complainant, he sold out the same to third parties. Accordingly, the appellant and other accused persons cheated the complainant to the tune of Rs.16,01,00,000/- (though mentioned in complaint as Rs.16,06,00,000/-) by their willful and intentional action of fraud, cheating and criminal breach of trust. Hence the complaint.

3.6 On the strength of the complaint filed before the Judicial Magistrate, a FIR being Crime No. 21 of 2020 came to be registered on 7th November 2020, at District Crime Branch, Kancheepuram District, against accused Nos. 1, 2 and 3, for the offences punishable under Section 420 read with 34 of the IPC.

3.7 Aggrieved thereby, the appellant herein filed a Criminal O.P. No. 20716 of 2020 before the High Court, under Section 482 of the Cr.P.C., to call for the records and to quash the said FIR.

3.8 Vide impugned order dated 15th July 2022, the learned Single Judge of the High Court, observed that it is clear that the intention of the appellant and other accused persons was only to cheat the complainant and that it can be seen from the FIR that there are specific allegations against the appellant to attract the offence, which has to be investigated in depth.

3.9 The Single Judge held that the FIR discloses *prima facie* commission of a cognizable offence and as such, the High Court cannot interfere with the investigation. As a result, the High Court rejected the petition under Section 482 of Cr.P.C. for quashing of the FIR, but directed the investigating agency to complete the investigation and file a final report within a period of twelve weeks.

3.10 Aggrieved thereby, the appellant filed the present appeal, in which notice came to be issued vide order dated 21st October 2022.

3.11 As per the additional documents filed in this Court, the charge-sheet in relation to the subject FIR, came to be filed on 4th January 2023.

4. We have heard Shri S. Nagamuthu, learned Senior Counsel appearing for the appellant, Shri V. Krishnamurthy, learned Senior Additional Advocate General (AAG) for respondent No. 1 and Shri G. Ananda Selvam, learned counsel appearing for respondent No. 2.

SUBMISSIONS

5. Shri Nagamuthu, learned Senior Counsel appearing on behalf of the appellant submits that even if the averments made in the FIR are taken at their face value, no case is made out for the offence punishable under Section 420 of IPC against the present appellant. It is further submitted that a reading of the charge-sheet would reveal that none of the ingredients to attract the provision of Section 420 of IPC could be found therein.

6. Shri Nagamuthu, relying on various judgments of this Court, submits that, for attracting the offence of 'cheating' as defined under Section 415 of IPC and punishable under Section 420 of IPC, it is necessary that the FIR should make out a case of "intentional inducement", "dishonesty" or "fraudulence". It is submitted that for the offence of 'cheating', there should not only be cheating, but as a consequence of such cheating, the accused should also have dishonestly induced the person deceived to deliver any property to a person. It is submitted that neither the FIR nor the charge-sheet contain a whisper with respect to any inducement, fraud or dishonesty qua the appellant that caused the complainant to deliver the sum of Rs.20,00,000/- to his bank account on 2nd February 2017.

7. Shri Nagamuthu further submitted that the complainant has deliberately suppressed the fact that the appellant had transferred the land in favour of accused No. 1 by way of a Sale Deed dated 3rd February 2017 i.e., on the very next day of receiving the sum of Rs.20,00,000/- from the complainant. It is further submitted that, on the very same day i.e. 3rd February 2017, accused No. 1 had executed a GPA in favour of the complainant vide Document No. 3733 of 2017. The GPA specifically states that the complainant had received the GPA in respect of the land purchased by accused No. 1 from the appellant. It is therefore submitted that the appellant has no role to play after 3rd February 2017 and almost all the allegations are with regard to cancellation of GPA etc., and execution of subsequent sale deed in favour of accused No. 4-Seeralan and accused No. 5-Kavitha by accused No. 1, are not related to the appellant.

8. As against this, Shri G. Ananda Selvam, learned counsel appearing for respondent No. 2 submits that since the charge-sheet has already been filed, the appeal is rendered infructuous. It is submitted that the appellant can very well file an application for discharge. It is further submitted that the averments in the FIR would clearly show that the present appellant along with other accused persons has cheated the complainant and defrauded with the huge amount. It is therefore submitted that no interference is warranted in the present appeal.

CONSIDERATION

9. The law with regard to exercise of jurisdiction under Section 482 of Cr.P.C. to quash complaints and criminal proceedings has been succinctly summarized by this Court in the case of ***Indian Oil Corporation v. NEPC India Limited and Others***[1] after considering the earlier precedents. It will be apposite to refer to the following observations of this Court in the said case, which read thus:

"**12.** The principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings have been stated and reiterated by this Court in several decisions. To mention a few—*Madhavrao Jiwajirao Scindia* v. *Sambhajirao Chandrojirao Angre* [(1988) 1 SCC 692 : 1988 SCC (Cri) 234] , *State of Haryana* v. *Bhajan Lal* [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , *Rupan Deol Bajaj* v. *Kanwar Pal Singh Gill* [(1995) 6 SCC 194 : 1995 SCC (Cri) 1059] , *Central Bureau of Investigation* v. *Duncans Agro Industries Ltd.* [(1996) 5 SCC 591 : 1996 SCC (Cri) 1045] , *State of Bihar* v. *Rajendra Agrawalla* [(1996) 8 SCC 164 : 1996 SCC (Cri) 628] , *Rajesh Bajaj* v. *State NCT of Delhi* [(1999) 3 SCC 259 : 1999 SCC (Cri) 401] , *Medchl Chemicals & Pharma (P) Ltd.* v. *Biological E. Ltd.* [(2000) 3 SCC 269 : 2000 SCC (Cri) 615] , *Hridaya Ranjan Prasad Verma* v. *State of Bihar* [(2000) 4 SCC 168 : 2000 SCC (Cri) 786] , *M. Krishnan* v. *Vijay Singh* [(2001) 8 SCC 645 : 2002 SCC (Cri) 19] and *Zandu Pharmaceutical Works Ltd.* v. *Mohd. Sharaful Haque* [(2005) 1 SCC 122 : 2005 SCC (Cri) 283] . The principles, relevant to our purpose are:

(i) A complaint can be quashed where the allegations made in 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 the case alleged against the accused.

For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a

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[1] **(2006) 6 SCC 736 : 2006 INSC 452**

meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with *mala fides*/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out: (*a*) purely a civil wrong; or (*b*) purely a criminal offence; or (*c*) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceeding are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.

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, 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."

10. The Court has also noted the concern with regard to a growing tendency in business circles to convert purely civil disputes into criminal cases. The Court observed that 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. The Court also recorded that there is an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. The Court, relying on the law laid down by it in the case of ***G. Sagar Suri and Another v. State of U.P. and Others***[2] held that any effort

[2] **(2000) 2 SCC 636 : 2000 INSC 34**

to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged. The Court also observed that though 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.

11. This Court, in the case of ***Prof. R.K. Vijayasarathy and Another v. Sudha Seetharam and Another*** [3] has culled out the ingredients to constitute the offence under Sections 415 and 420 of IPC, as under:

"**15.** Section 415 of the Penal Code reads thus:

"**415.** ***Cheating***.—Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived 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, is said to "cheat"."

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16. The ingredients to constitute an offence of cheating are as follows:

16.1. There should be fraudulent or dishonest inducement of a person by deceiving him:

16.1.1. The person so induced should be intentionally induced to deliver any property to any person or to consent that any person shall retain any property, or

16.1.2. The person so induced should be intentionally induced to do or to omit to do anything which he would not do or omit if he were not so deceived; and

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[3] **(2019) 16 SCC 739 : 2019 INSC 216**

16.2. In cases covered by 16.1.2. above, the act or omission should be one which caused or is likely to cause damage or harm to the person induced in body, mind, reputation or property.

17. A fraudulent or dishonest inducement is an essential ingredient of the offence. A person who dishonestly induces another person to deliver any property is liable for the offence of cheating.

18. Section 420 of the Penal Code reads thus:

"**420. *Cheating and dishonestly inducing delivery of property***.— Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

19. The ingredients to constitute an offence under Section 420 are as follows:

19.1. A person must commit the offence of cheating under Section 415; and

19.2. The person cheated must be dishonestly induced to

(a) deliver property to any person; or

(b) make, alter or destroy valuable security or anything signed or sealed and capable of being converted into valuable security.

20. Cheating is an essential ingredient for an act to constitute an offence under Section 420."

12. A similar view has been taken by this Court in the cases of ***Archana Rana v. State of Uttar Pradesh and Another***[4]***,*** ***Deepak Gaba and Others v. State of Uttar Pradesh and Another***[5][6] and ***Mariam Fasihuddin and Another v. State by Adugodi Police Station and Another***[6].

13. It could thus be seen that for attracting the provision of Section 420 of IPC, the FIR/complaint must show that the ingredients of Section 415 of

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[4] **(2021) 3 SCC 751 : 2021 INSC 135**
[5] **(2023) 3 SCC 423 : 2023 INSC 1**
[6] **SCC OnLine SC 58 : 2024 INSC 49**

IPC are made out and the person cheated must have been dishonestly induced to deliver the property to any person; or to make, alter or destroy valuable security or anything signed or sealed and capable of being converted into valuable security. In other words, for attracting the provisions of Section 420 of IPC, it must be shown that the FIR/complaint discloses:

(i) the deception of any person;

(ii) fraudulently or dishonestly inducing that person to deliver any property to any person; and

(iii) dishonest intention of the accused at the time of making the inducement.

14. The averments with regard to the present appellant as have been found in the FIR is as under:

"At the instance of the said Lakshmanan (accused No.1), I (complainant) paid directly Rs. 20,00,000/- to one Mohan (appellant-accused No. 3) and the said Lakshmanan (accused No.1) transferred the remaining sale consideration of over 18 odd crores to Mohan for the purchase of his lands at Sunguvarchatram. But suppressed the execution of sale deed dated 03.02.2017 by the appellant/accused No.3."

15. A perusal thereof would reveal that even in the said averments, the allegation with regard to inducement is only qua accused No. 1. We have perused the entire FIR. Except the aforesaid allegations, there are no other allegation with regard to the present appellant-accused No. 3. The rest of the allegations are against accused No. 1 (Lakshmanan). Even the allegations with regard to inducement are only against accused Nos. 1 and 2.

16. Not only that, even in the charge-sheet, the only role attributed to the present appellant could be found as follows:

"Thereafter, A2 had lured the complainant once again saying that A1 is going to layout the 9.80 acre land in Chittoor Village, Thiruperumbudur Taluk, which is under A3's general power of attorney and that the complainant would gain huge profits if he invests Rs. 2 crores in this project as well. A1 too, as he had already done, lured the complainant that he would pay him a share out of the profit, and executed a General Power of Attorney Deed in favour of the complainant in respect of the

9.80 acre land in Chittoor Village in Thiruperumbudur Taluk which he purchased from A3 and registered it as Doc. No. 3733/2017 in Sunguvarchattiram Sub Registrar Office on 03.02.2017, in a manner instilling confidence in the complainant.

……..

Moreover, upon instructions from A1 to transfer Rs. 20,00,000/- to A3's Tamil Nadu Mercantile Bank Account towards sale of the land made by A3 to A1, the complainant had transferred online a sum of Rs.20,00,000/- to A3's Tamil Nadu Mercantile Bank Account from his Yes Bank Account on 02.02.2017."

17. It could thus be seen that the only allegation against the present appellant is that accused No. 1 executed the GPA in favour of the complainant in respect of the land which is purchased from the present appellant-accused No.3. The other allegation is that upon instructions of accused No. 1 to transfer Rs. 20,00,000/- to accused No. 3's Tamil Nadu Mercantile Bank Account towards sale of the land made by the appellant-accused No.3 to accused No.1, the complainant had transferred online a sum of Rs.20,00,000/-.

18. It is an undisputed position that upon receipt of the said amount of Rs.20,00,000/-, the present appellant had transferred the land in question by sale deed in favour of accused No.1. It is also undisputed that thereafter accused No. 1 executed the GPA in favour of the complainant on the same day. After the sale deed was executed in favour of accused No.1 by the appellant-accused No.3, though the complaint narrates various instances thereafter, no role is attributed to the present appellant.

19. At the cost of repetition, it has to be noted that no role of inducement at all has been attributed to the present appellant. Rather, from the perusal of the FIR and the charge-sheet, it would reveal that there was no transaction of any nature directly between the appellant and the complainant. The version, if accepted at its face value, would reveal that, at the instance of accused No. 1, the complainant transferred the amount of Rs.20,00,000/- in the account of the appellant. On receipt of the said amount, the appellant immediately executed the sale deed in favour of accused No.1, who thereafter executed the GPA in favour of the complainant. After that, no role is attributed to the present appellant and whatever happened thereafter, has happened between accused No. 1, the

complainant and the other accused persons. In that view of the matter, we find that the FIR or the charge-sheet, even if taken at its face value, does not disclose the ingredients to attract the provision of Section 420 of IPC qua the appellant.

20. The dishonest inducement is the *sine qua non* to attract the provisions of Sections 415 and 420 of IPC. In our considered view, the same is totally lacking qua the present appellant. In that view of the matter, we find that continuation of the criminal proceedings against the present appellant would be nothing else but amount to abuse of process of law resulting in miscarriage of justice.

21. Insofar as the contention of the respondents that since the charge-sheet has been filed, the present appeal is liable to be dismissed, is concerned, it will be relevant to refer to the following observations of this Court, in the case of ***Anand Kumar Mohatta and Another v. State (NCT of Delhi), Department of Home and Another***[7]:

"**14.** First, we would like to deal with the submission of the learned Senior Counsel for Respondent 2 that once the charge-sheet is filed, petition for quashing of FIR is untenable. We do not see any merit in this submission, keeping in mind the position of this Court in *Joseph Salvaraj A.* v. *State of Gujarat* [*Joseph Salvaraj A.* v. *State of Gujarat*, (2011) 7 SCC 59 : (2011) 3 SCC (Cri) 23] . In *Joseph Salvaraj A.* [*Joseph Salvaraj A.* v. *State of Gujarat*, (2011) 7 SCC 59 : (2011) 3 SCC (Cri) 23] , this Court while deciding the question whether the High Court could entertain the Section 482 petition for quashing of FIR, when the charge-sheet was filed by the police during the pendency of the Section 482 petition, observed : (SCC p. 63, para 16)

"*16*. Thus, from the general conspectus of the various sections under which the appellant is being charged and is to be prosecuted would show that the same are not made out even prima facie from the complainant's FIR. Even if the chargesheet had been filed, the learned Single Judge [*Joesph Saivaraj A.* v. *State of Gujarat*, 2007 SCC OnLine Guj 365] could have still examined whether the offences alleged to have been committed by the appellant were prima facie made out from the complainant's FIR, chargesheet, documents, etc. or not."

[7] **(2019) 11 SCC 706 : 2018 INSC 1060**

15. Even otherwise it must be remembered that the provision invoked by the accused before the High Court is Section 482 CrPC and that this Court is hearing an appeal from an order under Section 482 CrPC. Section 482 CrPC reads as follows:

"**482. *Saving of inherent powers of the High Court***.—Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any court or otherwise to secure the ends of justice."

16. There is nothing in the words of this section which restricts the exercise of the power of the Court to prevent the abuse of process of court or miscarriage of justice only to the stage of the FIR. It is settled principle of law that the High Court can exercise jurisdiction under Section 482 CrPC even when the discharge application is pending with the trial court [*G. Sagar Suri* v. *State of U.P.*, (2000) 2 SCC 636, para 7 : 2000 SCC (Cri) 513. *Umesh Kumar* v. *State of A.P.*, (2013) 10 SCC 591, para 20 : (2014) 1 SCC (Cri) 338 : (2014) 2 SCC (L&S) 237] . **Indeed, it would be a travesty to hold that proceedings initiated against a person can be interfered with at the stage of FIR but not if it has advanced and the allegations have materialised into a charge-sheet. On the contrary it could be said that the abuse of process caused by FIR stands aggravated if the FIR has taken the form of a charge-sheet after investigation. The power is undoubtedly conferred to prevent abuse of process of power of any court**."

[emphasis supplied]

22. A similar view has been taken by this Court in the case of ***Haji Iqbal alias Bala through S.P.O.A. v. State of U.P. and Others***[8].

23. In that view of the matter, contention in this regard has no merit.

CONCLUSION

24. In the result, we are inclined to allow the appeal. The order of the High Court dated 15th July 2022 in Criminal O.P. No.20716 of 2020 and Criminal M.P. No. 8763 of 2020 is quashed and set aside. The FIR in Crime No.21 of 2020 and the consequential charge-sheet filed against the present appellant shall stand quashed and set aside.

25. Pending application(s), if any, shall stand disposed of.