**A.F.R.**
Judgment reserved on. 06.07.2026
Judgment delivered on. 14.07.2026
Neutral Citation No. - 2026:AHC:141019

**Court No. - 73**

**Case :-** APPLICATION U/S 482 No.4446 of 2009

**Applicant(s):-** Ritesh Jaiswal
**Opposite Party(s) :-** State of U.P. and Another
**Counsel for Applicant(s) :-** Anil Mullick
**Counsel for Opposite Party(s) :-** Abhitab Kumar Tiwari, Govt. Advocate

1. The instant application under Section 482 CrPC has been filed by the accused/applicant Ritesh Jaiswal for the following reliefs:-

> *"It is, therefore, most respectfully prayed that the Hon'ble Court may graciously be placed to admit and allow the application, and to quash the chargesheet No. 112A of 2008 dated 18.03.2008 filed against the applicant under Section 420, 467, 468, 471 IPC, relating to police station Railway Road, District Meerut in connection with Case No. 1303/9 of 2008(State vs. Aarti Jaiswal and others) pending in the court of 2nd Additional Chief Judicial Magistrate, Meerut."*

2. It is the case of the 1st informant/respondent No. 2 Dhan Singh that about 3 – 4 days back at his house situated in Nai Basti Sofipur, police Station Daurala, the Branch manager of State Bank of Patiala, Railway Road, Branch Meerut came and enquired from him whether he is taking loan on his land. Then he contacted all his brothers and enquired from them whether they are taking loan on their land, but all of them refused. He was informed by the above Branch manager that some person intends to obtain loan on their land by fabricating some documents in his name. The Branch manager further informed that 2 persons will arrive at about 4 PM on 26.9.2007 in his bank than he will inform them. Today, on getting the information at about 4:15 PM on the phone of Naresh Saini from the Branch manager, he along with

obtain loan on the basis of the documents pertaining to your land. On hearing this, the above persons who were sitting in the bank with the manager, tried to flee but 2 persons were forcibly apprehended by them but 2 other persons managed to flee from the bank. The apprehended persons disclosed their names as **Vinod Jaiswal** and **Thakurji**, who threatened them with dire consequences. The apprehended persons as well as the persons who fled from the bank, were trying to obtain loan on the basis of fraudulent documents of their land. All the above documents relating to the land as well as the fraudulent documents are in the possession of the manager of the bank.

3. The apprehended persons were taken to the police station Railway Road, Meerut on 26.9.2007 and thereafter, an FIR was registered on 26.9.2007 at 17:45 hours being Case crime No. 200 of 2007 under Section 420, 467, 468, 471,506 IPC at police station Railway Road, Meerut in which after investigation chargesheet has been submitted against **Smt.Aarti Jaiswal, Ritesh Jaiswal and Vikram Asthana** under Section 420, 467, 468, 471 IPC on which cognizance has been taken on 13.6.2008 by the Judicial Magistrate 2nd, Meerut.

4. Learned counsel for the accused/applicant submitted that prima-facie even if all the allegations levelled against the applicant in the 1st information report are taken to be true, even then no case is made out against the applicant. The applicant is alleged to be the guarantor of the proposed loan which was to be obtained by his parents Vinod Jaiswal and Aarti Jaiswal. He submitted that the applicant is a young man of 24 years who has got nothing to do in the entire transaction as he runs his own business and has no criminal history. The FIR was registered only against 2 persons namely Vinod Jaiswal, Thakurji and against 2 unknown persons. The applicant is not named in the FIR and his name appeared in the statement of Ajay Kumar Saini, Uttam Kumar Saini, Amit Kumar Saini, Ramesh Saini who have stated that they came to know that the applicant and his mother Smt. Aarti Jaiswal are also involved in conspiracy along with Vikram Asthana,

is made out and the chargesheet is liable to be quashed.

6. It was further submitted that one Mool Chand, was the owner of the disputed land, who on 20.6.2007 executed a registered power-of-attorney in favour of Vikram Asthana, who subsequently entered into an agreement to sell with Smt.Aarti Jaiswal on 06.9.2007 and an advance of ₹ 50,000/- was paid by her. It was further submitted that a valuation report dated 6.8.2007 as well as certificate of title dated 14.8.2007 was also given by the advocate of the bank relating to property in dispute.

7. It was further submitted that the applicant is wholly innocent, since the agreement was entered by Vinod Jaiswal with Vikram Asthana, who was the holder of power-of-attorney, as such cheating, if any, was done by Vikram Asthana and not by the applicant, as such, the chargesheet as well as criminal proceedings in the court below are abuse of process of law, hence liable to be quashed.

8. It was further submitted that the action of the accused/applicant had all through been bona fide. On 14.8.2007 the applicant obtained the certificate of title, which was given by concerned advocate, after verifying the documents and obtaining such certificate from sub-registrar Meerut, which stated that Vinod Jaiswal, the co-accused shall acquire, an absolute, clear and marketable title over the property. It was further certified that the title deeds were genuine and a valid mortgage could be created, which would be enforceable.

9. It was further submitted that the co-accused bonafidely believed the version of power-of-attorney holder Vikram Asthana that he possesses a genuine power-of-attorney. The decision to take loan was arrived at after obtaining the opinion of lawyer regarding equitable mortgage. In the legal opinion, it was clearly stated that khasra number 162m, situated at village Pilna, Sofipur, Pargana tehsil and District Meerut was owned by Mool Chand,Natthu and Sohanlal. Natthu died leaving behind his sons namely Dhan Singh, Tilak Ram,

was in bona fide belief regarding the correctness of all the documents and had no criminal intention to defraud the bank. It was further submitted that since the bank has not advanced any loan to any person hence no question of giving guarantee arises. The applicant had no role in preparation of the power-of-attorney or any of the documents.

11. It was further submitted that the arrest of the applicant was stayed during investigation by this Court in Criminal Miscellaneous Writ Petition No. 988 of 2008 vide order dated 5.2.2008. With these submissions it was prayed that the application be allowed and the criminal proceeding pending against the applicant be quashed. In support of his submission learned counsel has relied upon the following case law:-

*(i)Sheila Sebastian vs. R.Jawaharaj and anr. (2018) 7 SCC 581*
*(ii)Naresh Aneja@ Naresh Kumar Aneja vs. State of U.P. and anr. (2025) 2 SCC 604*
*(iii)Manchu Mohan Babu vs. State of A.P. and anr. 2025 SCC OnLine SC 1573*

12. Service on 1st informant/respondent No. 2 is sufficient and his counter affidavit is also on record, but none is present to argue the case on his behalf.

13. The counter affidavit of respondent No. 2 mentions that during the investigation bank authority supplied some documentary evidence to the investigating officer which are part of the case diary in which there are 2 application for loan and in 1st application, applicant mentions his name as applicant and puts his signature over it and in the 2nd application he mentions his name as guarantor and puts his signature over it and it is also relevant that aforesaid application for loan was applied/submitted on the basis of forged document. It was further stated that Sohanlal has died on 17.01.1990, Natthu Singh has died on 01.08.1999 and Moolchand Saini has died in the year 1990 and after their death, property was owned by their heirs, but in the

attorney and agreement to sell has already been filed by the applicant along with his affidavit for kind perusal of this Court. The photocopies of the death certificates of Sohanlal, Natthu Singh and Moolchand Saini and the alleged agreement to sell were also filed by the respondent.

14. It was admitted by the respondent in his counter affidavit that the alleged certificate given by advocate was also based upon forged documents which was also produced before him by the applicant and other co-accused therefore, from this certificate also bonafide intention of accused persons is not proved but it shows their malafide intention. It was also stated that from the investigation it is clear that the applicant and other co-accused persons prepared forged documents in the name of dead persons and applied for loan and specific evidence is available against applicant also, hence primafacie offence is made out against applicant and investigating officer has rightly submitted chargesheet in this case and learned Magistrate has also rightly taken cognizance thereon. It was further stated that no ground is made out for quashing the chargesheet and hence, the application of the applicant is liable to be dismissed and the interim order dated 3.3.2009 is liable to be vacated.

15. On behalf of State of Uttar Pradesh, counter affidavit of Shri S.D.Sharma, Sub Inspector, police Station Railway Road, Meerut has been filed which opposes the prayer of the applicant for quashing of the chargesheet in the criminal case on the ground that the applicant can raise his grievance before the trial court at the time of framing of the charges.

16. A rejoinder affidavit has also been filed by the applicant.

17. I have heard the learned counsel for the applicant, AGA and perused the documents on record.

**Statement of witnesses**

deposited with the Branch manager, whereas Moolchand had already died in the year 1990.

19. As per the statement of witness Tilakram, Mohanveer,Vinod Kumar, Ramesh Saini, Tejkaran Saini,Umesh Saini under Section 161 of the CrPC their predecessors Natthu Singh, Moolchand and Sohanlal were real brothers, who have died around the year 1990, who were the owners of the agricultural land bearing Gata number 161/1,161/2,162m,164/1,164/2,163/1 situated in village Sofipur, and after their(predecessors) demise, the land came into their and their cousin brothers share and some portion of the land of the above Gata and 165/1,178m also came to the share of their relative Manoj Kumar and Bhela Devi. On 26.9.2007 the Branch manager of the State Bank of Patiala, Railway Road, Meerut city and the field officers of the bank came to them and inquired whether they are obtaining loan on the basis of documents belonging to Moolchand, on which after inquiring from one another, they told the Branch manager that they have not moved any such application for obtaining loan. They further gave to the Branch manager a notarised affidavit executed on ₹ 10/- stamp paper that they have neither applied to the bank for any such loan nor they are guarantor in it. On getting information on 26.9.2007 at about 4:15 PM on the mobile phone of Naresh Kumar Saini from the bank, that the persons who are intending to take loan of ₹ 10 lakhs on their land on the basis of forged documents are present in the bank, they along with others went to the bank, where 2 persons were apprehended after applying some force at about 5:15 PM, who were taken to the police station Railway Road, Meerut city and the case was also registered. The documents filed by the accused persons as well as the affidavit given by them, could be obtained from the bank. They further stated that the accused persons have impersonated themselves to be deceased Moolchand and they were illegally trying to take loan on their land on the basis of forged documents.

20. Pinada Jagdish the Asst manager working at State Bank of Patiala, Railway Road, Meerut city branch in his statement to the I.O.

the loan as per the bank norms, such as – their identity proof, income tax and documents related to property to be purchased. The applicants and guarantor submitted their documents such as – PAN card, election card, driving licence of Ritesh Jaiswal , income tax return, a mutual settlement by all others in favour of Moolchand that the land has come in his share and he can enter into an agreement for sale of such property, a certificate issued by Meerut Development Authority regarding land use dated 13.9.2007, an affidavit dated 19.9.2007 by legal heirs of Natthu and Sohanlal in favour of Moolchand, a power-of-attorney executed by Moolchand in favour of Vikram Asthana dated 23.6.2007, an agreement to sell dated 6.9.2007 executed by Vikram Asthana power-of-attorney holder of Moolchand in favour of Smt.Aarti Jaiswal for a consideration of ₹ 12.50 lakhs, an affidavit from Smt. Aarti Jaiswal regarding the property ownership dated 14.9.2007. On 7.9.2007, he along with another Assistant Manager Yoginder Singh Negi, visited the residence and the site of property to be purchased by the applicant as shown by Vinod Jaiswal, for making independent discreet enquiries regarding the seller and purchaser. On 24.9.2007 he along with Yogendra Singh Negi and the Branch manager Mukesh Kumar Sharma again visited the site of the property to be purchased and met the legal heirs of late Natthu ,who disclosed that Moolchand and Sohanlal have expired long ago. They also confirmed of neither having entered into any agreement with anybody nor giving any affidavit in this regard to anybody. On 26.9.2007 he received an affidavit from legal heirs of late Natthu regarding the facts narrated to him. On 26.9.2007 at around 4 PM Vinod Jaiswal came with a person introducing him as Moolchand but on enquiry the so-called Moolchand, failed to give satisfactory reply regarding his identity as Moolchand. Meanwhile legal heirs of late Natthu reached the bank, who were asked to identify the alleged Moolchand. Seeing the gravity of the situation Vinod Jaiswal and so-called Moolchand escaped from banks premises.

21. Mukesh Kumar, Branch manager, State Bank of Patiala, Meerut city in his statement to the I.O. disclosed that on 07.9.2007 he had

Negi went to the site of land on 24.9.2007 for making enquiries and then he came to know that in reality the land belonged to late Natthu, Moolchand and Sohanlal Saini, who had died around the year 1990, and now the land had devolved to their children namely Dhan Singh and others. He further stated that regarding the documents submitted by Vinod Jaiswal with the bank, he was informed that the legal heirs of the deceased have neither sold the land nor had executed any power-of-attorney, in favour of any person. The legal heirs also disclosed that they have not moved any application for obtaining loan. After knowing the reality, he directed Vinod Jaiswal to come to the bank along with Moolchand and the legal heirs of Natthu. On 26.9.2007 he obtained affidavit of the legal heirs of late Moolchand and Natthu namely Dhan Singh, Mohanveer Singh, Tilakram, Rajveer, Vinod and others. On 26.9.2007 at about 4 PM Vinod Jaiswal came along with Moolchand and introduced another person, as Moolchand. On enquiry, the alleged Moolchand could not satisfactorily give answers to the querries, who turned out to be forged Moolchand. At about 4:45 PM Dhan Singh and others arrived at the bank. He disclosed to them that these are the persons who want to take loan on your land. On seeing them, Vinod Jaiswal and the alleged Moolchand(in reality Thakurji) escaped from the bank but were apprehended and assaulted by Dhan Singh and others, taken to the police station, where a case was registered against them. Vinod Jaiswal and others have tried to fraudulently take loan of ₹ 10 lakhs from the bank by fraudulently preparing documents of land belonging to some other person.

## <u>Documentary evidence on record</u>

22. The investigating officer has also collected the power of attorney(revocable) executed by Moolchand in favour of Vikram Asthana regarding the house situated in an area of 251.61 square yard = 211.21 square metre, in khasra number 162 village Peelna,Sofipur Pargana tehsil and District Meerut, on 20.6.2007. The power-of-attorney gives right to Vikram Asthana to sell the house to anyone,

which discloses that the above immovable property situated in khasra number 162m was agreed to be sold by Vikram Asthana to Smt.Aarti Jaiswal for a consideration of ₹ 12.50 lakhs and an earnest money of ₹ 50,000/- was also received by Vikram Asthana in cash. It was agreed between the parties that within the next 3 months, the sale deed of the disputed land would be executed in favour of the buyer after receiving the balance sale consideration.

24. It is also apparent from the valuation report that the immovable property proposed to be purchased by Smt.Aarti Jaiswal was conservatively valued by the registered valuer Satyaprakash Bansal, after inspecting the property, vide his report dated 6.8.2007, at ₹ 24.08 lakhs.

25. According to the prosecution, an affidavit was submitted before the State Bank of Patiala, Railway Road Branch, Meerut city disclosing that on 21.6.2007 a family settlement took place between Sohanlal s/o Chetram, the sons of late Natthu namely Dhan Singh, Tilakram, Dharamveer Singh, Rajveer, Vinod, Mohanveer and Moolchand s/o Chetram according to which, the disputed immovable property came to the share and possession of Moolchand, regarding which, others do not have any objection if it is sold. This affidavit has neither been signed by the applicant nor his parents. It bears the signature of Sohanlal and Moolchand, who had died way back in the year 1990.

26. The certificate of title report submitted by Shri Ashutosh Garga, Advocate dated 14.8.2007 to the Branch manager, State Bank of Patiala, Meerut discloses that the records of title of the disputed property were examined by him. A search certificate was also obtained from the office of sub-registrar, Meerut. The report mentions that if mortgage is created, it will be available to the bank for the liability of the intended borrowers Vinod Jaiswal and Smt.Aarti Jaiswal, who shall acquire absolute, alienable and marketable title in respect thereof in case either the vendor Moolchand or his power-of-

*that the above title deeds are genuine and a valid mortgage can be created and the said mortgage would be enforceable."*

27. It is pertinent to mention here that the above advocate Shri Ashutosh Garga gave his report dated 14.8.2007 after perusing the following documents:-

(i) Original registered power-of-attorney dated 23.6.2007, registered in the office of sub-registrar Khekhra, District Baghpat.
(ii) Certified extract of khasra and khatauni of Khata khatauni no. 00075, situated at village Pilna,Sofipur, Pargana tehsil and District Meerut.
(iii) Original memorandum of family settlement dated 21.6.2007 in respect of the property to be mortgaged with the bank.
(iv) Agreement to sell dated 9.8.2007 entered into in between Vikram Asthana for and on behalf of Moolchand in favour of borrowers.
(v) Original sale deed to be executed by Moolchand in favour of Vinod Jaiswal and Smt.Aarti Jaiswal.

28. The report of Shri Ashutosh Garga, Advocate further discloses that the disputed property was situated in khasra number 162m, situated at village Pilna,Sofipur, Pargana tehsil and District Meerut, which was originally owned by Moolchand, Natthu and Sohanlal. Natthu had died leaving behind his sons namely Dhan Singh, Tilakram, Dharamveer Singh, Mohanveer Singh, Rajveer, Vinod, whose names had been duly mutated in the revenue records in place of late Natthu. Thereafter, the house was constructed in the said khasra and in the family settlement, the house to be mortgaged with the bank came into the share of Moolchand, who had executed a power-of-attorney in favour of Vikram Asthana.

**Analysis of case law**

29. The Apex Court in the case of ***Sheila Sebastian*** (supra) while interpreting provisions of Section 463 and 464 of the IPC, has held as under:-

*Section 465 provides punishment for the commission of the offence of forgery. In order to sustain a conviction under Section 465, first it has to be proved that forgery was committed under Section 463, implying that ingredients under Section 464 should also be satisfied. Therefore unless and until ingredients under Section 463 are satisfied a person cannot be convicted under Section 465 by solely relying on the ingredients of Section 464, as the offence of forgery would remain incomplete.*

*20. The key to unfold the present dispute lies in understanding Explanation 2 as given in Section 464 IPC. As Collin, J., puts it precisely in Dickins v. Gill [(1896) 2 QB 310 (DC)], a case dealing with the possession and making of fictitious stamp wherein he stated that "to make", in itself involves conscious act on the part of the maker. Therefore, an offence of forgery cannot lie against a person who has not created it or signed it.*

*21. It is observed in Mohd. Ibrahim v. State of Bihar [(2009) 8 SCC 751 : (2009) 3 SCC (Cri) 929] that: (SCC p. 756, para 14)*

> *"14. … a person is said to have made a "false document", if*
>
> *(i) he made or executed a document claiming to be someone else or authorised by someone else; or*
>
> *(ii) he altered or tampered a document; or*
>
> *(iii) he obtained a document by practising deception, or from a person not in control of his senses."*

*22. In Mohd. Ibrahim, this Court had the occasion to examine forgery of a document purporting to be a valuable security (Section 467 IPC) and using of forged document as genuine (Section 471 IPC). While considering the basic ingredients of both the offences, this Court observed that to attract the offence of forgery as defined under Section 463 IPC depends upon creation of a document as defined under Section 464 IPC. It is further observed that mere execution of a sale deed by claiming that property being sold was executant's property, did not amount to commission of offences punishable under Sections 467 and 471 IPC even if title of property did not vest in the executant.*

*23. The Court in Mohd. Ibrahim observed that: (SCC p. 757, paras 16-17)* *belongs to him. The second is that he may be dishonestly or fraudulently claiming it to be his even though he knows that it is not his property. But to fall under first category of "false documents", it is not sufficient that a document has been made or executed dishonestly or fraudulently. There is a further requirement that it should have been made with the intention of causing it to be believed that such document was made or executed by, or by the authority of a person, by whom or by whose authority he knows that it was not made or executed.*

*17. When a document is executed by a person claiming a property which is not his, he is not claiming that he is someone else nor is he claiming that he is authorised by someone else. Therefore, execution of such document (purporting to convey some property of which he is not the owner) is not execution of a false document as defined under Section 464 of the Code. If what is executed is not a false document, there is no forgery. If there is no forgery, then neither Section 467 nor Section 471 of the Code are attracted."*

*24. In Mir Nagvi Askari v. CBI [(2009) 15 SCC 643 : (2010) 2 SCC (Cri) 718] , this Court, after analysing the facts of that case, came to observe as follows: (SCC p. 687, para 164)*

*"164. A person is said to make a false document or record if he satisfies one of the three conditions as noticed hereinbefore and provided for under the said section. The first condition being that the document has been falsified with the intention of causing it to be believed that such document has been made by a person, by whom the person falsifying the document knows that it was not made. Clearly the documents in question in the present case, even if it be assumed to have been made dishonestly or fraudulently, had not been made with the intention of causing it to be believed that they were made by or under the authority of someone else. The second criteria of the section deals with a case where a person without lawful authority alters a document after it has been made. There has been no allegation of alteration of the voucher in question after they have been made. Therefore, in our opinion the second criteria of the said section is also not applicable to the present case. The third and final condition of Section 464 deals with a document, signed by a person who due to his mental capacity does not know the contents of the documents which were made i.e. because of intoxication or*

*the maker of the same. As held in plethora of cases, making of a document is different than causing it to be made. As Explanation 2 to Section 464 further clarifies that, for constituting an offence under Section 464 it is imperative that a false document is made and the accused person is the maker of the same, otherwise the accused person is not liable for the offence of forgery."*

30. The Apex Court in the case of ***Vishal Noble Singh vs. State of U.P. and Another 2024 SCC OnLine SC 1680,*** while discussing the power of the High Court under Section 482 CrPC, has held as under:-

> *"11. In this regard, reliance was placed on the judgment of this Court in State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] ("Bhajan Lal") with particular reference to para 102 therein and sub-paras (1), (3), (5) and (7), which read as under: (SCC pp. 578-79)*
>
> > *"102. … (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.*
> >
> > *****
> >
> > *(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.*
> >
> > *****
> >
> > *(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.*
> >
> > *****
> >
> > *(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*

*extracted hereunder with regard to Section 420IPC, it was observed thus:*

*"42. On a reading of the aforesaid section, it is manifest that in the definition there are two separate classes of acts which the person deceived may be induced to do. In the first class of acts he may be induced fraudulently or dishonestly to deliver property to any person. The second class of acts 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 need not be fraudulent or dishonest. 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 a fraudulent or dishonest intention at the time of making the promise. From his mere failure to subsequently keep a promise, one cannot presume that he all along had a culpable intention to break the promise from the beginning.*

*43. We shall now deal with the ingredients of Section 467IPC. …*

*44. The following ingredients are essential for commission of the offence under Section 467IPC:*

*1. the document in question so forged;*
*2. the accused who forged it;*

*3. the document is one of the kinds enumerated in the aforementioned section.*

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*46. The court must ensure that criminal prosecution is not used as an instrument of harassment or for seeking private vendetta or with an ulterior motive to pressurise the accused. On analysis of the aforementioned cases, we are of the opinion that it is neither possible nor desirable to lay down an inflexible rule that would govern the exercise of inherent jurisdiction. Inherent jurisdiction of the High Courts under Section 482CrPC though wide has to be exercised sparingly, carefully and with caution and only when it is justified by the tests specifically laid down in the statute itself and in the aforementioned cases. In view of the settled legal position,* *Court in Bhajan Lal and particularly sub-paras (1), (3), (5) and (7) of para 102, extracted above, squarely apply to the facts of these cases. It is neither expedient nor in the interest of justice to permit the present prosecution to continue.*

*21. This Court, in Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre [(1988) 1 SCC 692 : 1988 SCC (Cri) 234] , reasoned that the criminal process cannot be utilised for any oblique purpose and held that while entertaining an application for quashing an FIR at the initial stage, the test to be applied is whether the uncontroverted allegations prima facie establish the offence. This Court also concluded that the court should quash those criminal cases where the chances of an ultimate conviction are bleak and no useful purpose is likely to be served by continuation of a criminal prosecution. The aforesaid observations squarely apply to this case.*

*22. We find that in recent years the machinery of criminal justice is being misused by certain persons for their vested interests and for achieving their oblique motives and agenda. Courts have therefore to be vigilant against such tendencies and ensure that acts of omission and commission having an adverse impact on the fabric of our society must be nipped in the bud."*

31. The Apex Court in the case of ***Mariam Fasihuddin and Another vs. State By Adugodi Police Station and Another (2024) 11 SCC 733*** while interpreting the provisions under Section 415,420,468 and 471 IPC, has held as under:-

*"21. Section 420IPC provides that 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 valuable security, or anything, which is signed or sealed, and which is capable of being converted into a valuable security, shall be liable to be punished for a term which may extend to seven years and shall also be liable to fine. Further, Section 415IPC distinctly defines the term "cheating". The provision elucidates that an act marked by fraudulent or dishonest intentions will be categorised as "cheating" if it is intended to induce the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, causing damage or harm to that person.*

*any person, and (iii) mens rea or dishonest intention of the accused at the time of making the inducement. There is no gainsaid that for the offence of cheating, fraudulent and dishonest intention must exist from the inception when the promise or representation was made.*

*23. It is well known that every deceitful act is not unlawful, just as not every unlawful act is deceitful. Some acts may be termed both as unlawful as well as deceitful, and such acts alone will fall within the purview of Section 420IPC. It must also be understood that a statement of fact is deemed "deceitful" when it is false, and is knowingly or recklessly made with the intent that it shall be acted upon by another person, resulting in damage or loss."Cheating" therefore, generally involves a preceding deceitful act that dishonestly induces a person to deliver any property or any part of a valuable security, prompting the induced person to undertake the said act, which they would not have done but for the inducement.*

****                    ***                    ****

*32. The offence of "forgery" under Section 468IPC postulates that whoever commits forgery, intending that the document or electronic document forged, shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Whereas Section 471IPC states that whoever fraudulently or dishonestly uses as genuine any documents which he knows or has reason to believe it to be a forged document, shall be punished in the same manner as if he had forged such document.*

*33. There are two primary components that need to be fulfilled in order to establish the offence of "forgery", namely: (i) that the accused has fabricated an instrument; and (ii) it was done with the intention that the forged document would be used for the purpose of cheating. Simply put, the offence of forgery requires the preparation of a false document with the dishonest intention of causing damage or injury."*

## Conclusion of this Court

32. It is evident from the above evidence collected by the investigating officer that the disputed property originally belonged to

Jaiswal believed the documents of the disputed property shown to them by co-accused Vikram Asthana, who was the alleged power-of-attorney holder of Moolchand, the original power-of-attorney of Moolchand dated 20.6.2007, which was registered on 23.6.2007, was also produced before the parents of the applicant and after perusing the above documents they bonafidely believed that Vikram Asthana was the power-of-attorney holder of Moolchand, as such they negotiated to purchase the disputed property for consideration of ₹ 12.50 lakhs by entering into an agreement to sell dated 06.09.2007 with Vikram Asthana, and an amount of ₹ 50,000/- in cash was also paid as advance to Vikram Asthana, by them.

33. It is apparent that since Moolchand had died way back around the year 1990, his alleged power-of-attorney, which was registered on 23.6.2007 in favour of Vikram Asthana at sub-registrar office tehsil Khekhra District Baghpat, was a forged and fabricated document. There is no evidence on record which suggests that the applicant and his parents were involved in any manner whatsoever, in fraudulently fabricating or making of the above power-of-attorney in favour of Vikram Asthana. It is further apparent that the applicant and his parents were not going to be benefited in any manner whatsoever, by purchasing the disputed immovable property from the alleged power-of-attorney holder Vikram Asthana, who in reality was not the power-of-attorney holder of Moolchand, and by purchasing the property of Moolchand through power-of-attorney holder Vikram Asthana, no lawful title would have been devolved in the disputed property in favour of the parents of the applicant. No prudent person would have purchased the disputed property from Vikram Asthana knowing that he was not the valid power-of-attorney holder of Moolchand. It is apparent that the parents of the applicant were befooled by Vikram Asthana, since he was able to convince them, that he was having the authority to execute the sale deed of the disputed property in their favour and consequently, he can pass a valid title of the disputed property in their favour.

equitably mortgaged in favour of the bank, for securing and obtaining the above loan. It is further apparent that the above bank also obtained legal opinion regarding the title of the disputed property from its lawyer Shri Ashutosh Garga, Advocate, who also, after perusing all the above documents, in his report dated 14.8.2007 opined that if the sale deed was executed by Vikram Asthana, being the power-of-attorney holder of Moolchand, then the borrowers i.e., the parents of the applicant will acquire absolute, alienable and marketable title in respect of the disputed property, which can be equitably mortgaged with the bank. The advocate has specifically certified the genuineness of the title deeds in his report. It is apparent that the advocate also believed the genuineness of the documents submitted to him by the bank/borrowers. Not an iota of doubt has been expressed by the advocate in his legal report. It is pertinent to mention here that if with all his experience and legal acumen the learned Advocate Shri Ashutosh Garga could not detect any illegality and fabrication in the title documents submitted by the borrowers/bank, then how it was possible for the layman borrowers to detect any such illegality or fabrication ?

35. From the above analysis it is apparent that both the borrowers as well as the learned counsel of the bank, were befooled in believing that the documents/title deeds of the disputed property was genuine and Vikram Asthana was the power-of-attorney holder of Moolchand, who was competent to execute the sale deed of the disputed property on behalf of Moolchand, in favour of the borrowers i.e., the parents of the applicant.

36. It is apparent that the applicant was only a guarantor for the proposed loan which was to be sanctioned to his parents by the State Bank of Patiala, Railway Road Branch, Meerut city. If the alleged sale deed would have been executed by Vikram Asthana in favour of the parents of the applicant, then neither any valid title would have devolved on his parents nor the applicant could have benefited from that transaction. In these circumstances, neither the parents of the

document, and the certified copy of khatauni of the disputed property, have been forged and fabricated by the applicant and his parents, to their advantage, in order to create any title in the disputed property in their favour. It is also apparent that the alleged family settlement dated 21.6.2007, which was allegedly submitted before the bank for obtaining the loan, has not been signed by the applicant or his parents. It bears the signature of Sohanlal and Moolchand, who had died way back in the year 1990. It is apparent that the factum of death of Sohanlal and Moolchand was concealed by co-accused Vikram Asthana from the applicant and his parents, which is also evident from the legal opinion of Shri Ashutosh Garga, Advocate. Vikram Asthana only disclosed that Natthu Singh has died. It is also apparent that co-accused Thakurji, impersonated himself as Moolchand, who was arrested in the bank on 26.9.2007, whose forged identity was also believed by the parents of the applicant. It is not the case of the prosecution that the applicant impersonated himself as Moolchand, before the bank.

37. It is also apparent that Sohanlal and Moolchand had died way back in the year 1990, but the khatauni did not reflect this and even after 17 years, the names of their legal heirs were not mutated in the revenue record, which created an impression that Sohanlal and Moolchand are alive, which was also believed by the applicant, his parents and Shri Ashutosh Garga, the learned counsel of the bank. It is pertinent to mention here that in order to avoid fraud, it was the bounden duty of the legal heirs of the deceased to get their names mutated in the revenue records, and if, they had done so, then certainly, this fraud could not have been perpetrated.

38. It has been disclosed by the learned counsel for the applicant that during the pendency of the case, co-accused Vinod Jaiswal and Thakurji have died. If that is true, it may be verified by the trial court, in accordance with law.

39. It is apparent that the alleged offence of cheating and fabrication

against him would be an abuse of the process of law. No useful purpose would be served by either keeping the trial of the criminal case pending against him or ordering him to face the trial at this late stage, prolonging his agony, since the matter is already about 19 years old.

40. **For the aforesaid reasons, the application preferred by the applicant under Section 482 CrPC is allowed**. Consequently, the chargesheet in criminal Case No.1303/9 of 2008,case crime No. 200 of 2007 under Section 420, 467, 468, 471 IPC police Station Railway Road, Meerut city **against the applicant Ritesh Jaiswal** and all incidental proceedings arising thereto against the applicant, **are hereby quashed**.

41. Interim order of this Court dated 03.03.2009, stands vacated. The concerned trial court is directed to proceed with the trial against the remaining surviving accused, in accordance with law and conclude it, preferably within a duration of one year from the date a certified copy of this order is produced before it.

42. The case of co-accused Smt. Aarti Jaiswal stands on the same footing as her son/applicant Ritesh Jaiswal but since she is not a party to this proceeding, hence no relief can be granted to her. In these circumstances, liberty is granted to Smt. Aarti Jaiswal to move a discharge application before the trial court, if so advised, and if any such application is preferred by her, then it shall be disposed by the trial court on merits in accordance with law, in the light of the observations made in this order, **within two months**. Till the disposal of the discharge application, no coercive action shall be taken against her.

**Order Date**:-14.07.2026
Jitendra/Himanshu/Mayank

**(Sandeep Jain, J.)**