



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Criminal misc. (Petition) No. 3402/2026
CNR: RJHC020507522026 | URN: CRLMP / 7613U / 2026

Suraj Gurjar S/o-Sh. Chhitar Lal Gurjar, Aged About 47 Years,
R/o-Village-Chhoriya, Tehsil-Niwai, District-Tonk-(Raj.)

-----Petitioner

Versus

1. State Of Rajasthan, Through P.p
2. Kunal Kasliwal S/o-Eeshnidhi Kasliwal, R/o-Gopalpura Road, Mangal Vihar, Jaipur-Raj., Director Kamal Koch Works Pvt. Ltd., Ricco Industrial Area, Niwai-Tonk-Raj.
3. Jai Kishan Gyanchandani, S/o-Sh. Bhojraj, Narayan, R/o-Aadarsh Nagar, Jaipur, Authorized Manager Kamal Koch Works Pvt. Ltd., Newai, District-Tonk-Raj.

-----Respondents

For Petitioner(s) : Mr. Atul Kumar Jain
For Respondent(s) : Ms. Suruchi Kasliwal with Mr. Vikram Singh Tanwar & Mr. Dikshant Jain
Mr. Vijay Singh Yadav, PPP

HON'BLE MR. JUSTICE ASHOK KUMAR JAIN

Order

REPORTABLE

24/08/2026

1. Instant misc. petition under Section 528 of BNSS is filed by petitioner-accused for quashing FIR No. 198/2026 dated 8-5-2026, registered at Police Station Niwai, District Tonk, for offense under Sections 338, 339, 340(2), 341(1), 342(2), 329(3), 336(3), 318(2), 61(2)(a) of BNS.
2. Learned counsel for petitioner submits that petitioner has entered into an agreement to sell with Kunal Kasliwal (non-petitioner No. 2), who is director of Kamal Coach Works



Private Limited, and on the basis of said agreement to sell, petitioner has acquired rights of rightful owner of land in question. He also submitted that on the basis of said agreement to sell, petitioner has filed a suit for specific performance and permanent injunction, which is pending before learned Additional District Judge, Niwai. He also submitted that non-petitioner No. 2 is well aware about the fact that a Civil Suit is filed before the trial court, wherein he has put in appearance. He also submitted that all of a sudden, on 08-5-2026, complainant Jai Kishan Gyanchandani on behalf of Kamal Coach works has filed a criminal complaint against present petitioner and others for forgery, cheating and breach of trust, and on the basis of said complaint, FIR No. 198/2026 has been registered against petitioner. He also submitted that the complainant Kamal Coach Works Private Limited has filed a suit for possession and injunction in the court of learned Additional District Judge, Niwai, and same is also pending against the petitioner.

3. Learned counsel has further submitted that pendency of two civil suits clearly indicate that dispute is of civil nature and registration of a criminal complaint in such a case is an abuse of process of law. He also submitted that the dispute about validity of an agreement and also about authority of possession can only be adjudicated by the civil court and not by police. Learned counsel has further referred judgment in case of **Ankul Singh Vs. State of U.P. and another reported in 2025 INSC 1153**, and submitted that when



dispute is purely of civil nature and essential ingredients of cheating or forgery are not *prima facie* made out, then the FIR is required to be quashed under Section 528 of BNSS.

4. Aforesaid contentions are opposed by learned Public Prosecutor and learned counsel for complainant. Learned Public Prosecutor has submitted a report received from Police Station Niwai, District Tonk, and same is taken on record.
5. Learned counsel for complainant non-petitioners has referred order dated 07-8-2026 in an application under Section 482 of BNSS by learned Additional Sessions Judge, Niwai and submitted that police has found that the document on the basis of which petitioner Suraj has claimed his right is in fact forged. She further referred the transaction and submitted that one of the accused Rajesh Jain was broker at the time of purchase of land by complainant Kamal Coach Works Private Limited, which is a company incorporated under the Companies Act. She further submitted that the broker Rajesh Jain has used the documents by committing breach of trust and using forged documents they have fabricated an agreement, which *prima facie* found to be forged. She further referred the cost of land and submitted that the land is worth several crores and cannot be sold in few lakhs. She also referred the competency of executant and submitted that the land is owned by a company and cannot be sold by an individual capacity by any of the directors. She also submitted that even money allegedly paid by cheque has never been deposited in bank account of complainant. She further referred the criminal act committed by petitioner and





submitted that the judgment in case of **Ankul Singh Vs. State of Uttar Pradesh (supra)** is not applicable upon facts of the case.

6. Heard learned counsel for parties and learned Public Prosecutor and perused the material placed on record.
7. Complainant Kamal Coach Works Private Limited, a company registered under the Companies Act, has filed a criminal complaint through its authorised manager, Jai Kishan, in the Court of Additional Chief Judicial Magistrate, Niwai, which was sent for registration of a criminal case under Section 175(3) of BNSS. On the basis of the said complaint, FIR No. 198 of 2026 was registered at Police Station Niwai. The police is continuing with the investigation and, after investigation, has found the role and involvement of the present petitioner and Rajesh Jain in commission of forgery and also encroachment on the land. The investigation report submitted by the learned Public Prosecutor indicates that there is no communication between Kunal Kasliwal and the present petitioner, and the police has verified this fact from the CDR details of Kunal Kasliwal. The police has found prima facie involvement of the present petitioner and Rajesh Jain in committing the offence and has reported that both are absconding from their respective places.
8. The anticipatory bail application filed by the present petitioner was dismissed by the learned Additional Sessions Judge, Niwai, on 07.08.2026.
9. The material on record indicates that a copy of the agreement to sell has been filed on record, which indicates





that on 26.02.2026, Kunal Kasliwal, as Director of Kamal Coach Works Private Limited, entered into an agreement to sell agricultural land on a sale consideration of ₹22.5 lakhs, out of which ₹11 lakhs was allegedly paid in cash and another ₹10 lakhs by cheque. It has been submitted that the said cheque was never realised in any account.

10. Learned counsel for the petitioner has also failed to substantiate the factum of payment to Kunal Kasliwal, thus, the factum of payment of sale consideration mentioned in the agreement has not been established prima facie. The said agreement indicates Rajesh Jain and Jagjeet Singh Chauhan as witnesses, and the agreement was attested by a Notary on 05.04.2026. The present petitioner lodged a report regarding loss of documents at Police Station Niwai, and the same was registered by the police on 05.04.2026. The said report lodged by the present petitioner indicates that the original documents are not in possession of present petitioner. Thereafter, the petitioner has sent a notice through counsel seeking specific performance to Kunal Kasliwal and Rajesh Jain and subsequently filed a civil suit for specific performance, which is pending before the learned Additional District Judge, Niwai, District Tonk. The complainant has also filed a suit for possession and injunction before the learned Additional District Judge against the petitioner, and the same is also pending.
11. No doubt, both the parties are before the civil court for adjudication of the dispute between them. However, the contention of learned counsel for the petitioner clearly



indicates that the original document has been lost and that the petitioner himself filed a lost-and-found report at the police station. The agreement to sell is alleged to be forged, and the police has also found that the agreement is forged. The agreement to sell between the parties is not an admitted document. Hence, at this stage, this Court cannot consider the dispute to be purely of a civil nature.

12. In case of **State of Haryana Vs. Bhajan Lal reported in 1992 Supplementary (1) SCC 335**, Hon'ble Supreme Court has laid down illustrative categories where quashing of proceedings is justified and same is reproduced as under:

"(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 Act concerned (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 Act concerned, 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."

13. In case of **Ankul Singh Vs. State of Uttar Pradesh and Anr. reported in 2025 INSC 1153**, Hon'ble Supreme Court has observed that the categories in **State of Haryana Vs. Bhajan Lal (supra)** are illustrative and not exhaustive, but they provide guiding principle to balance two competing considerations; (a) preventing abuse of process of law and (b) ensuring that criminal proceedings are not skipped at the threshold of disputed question of fact.

14. In case of **Neeharika Infrastructure Private Limited versus State of Maharashtra and others, reported in 2021 SCC Online SC 315**, a three-judge bench of Hon'ble Supreme Court has laid down following principle of law for considering questioning of criminal case under Section 482 Cr.P.C.:

"57. From the aforesaid decisions of this Court, right from the decision of the Privy Council in the case of **Khawaja Nazir Ahmad (supra)**, the following principles of law emerge:



i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure in Chapter XIV of the Code to investigate into cognizable offences;

ii) Courts would not thwart any investigation into the cognizable offences;

iii) However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on;

iv) The power of quashing should be exercised sparingly with circumspection, in the 'rarest of rare cases'. (The rarest of rare cases standard in its application for quashing under Section 482 Cr.P.C. is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court);

v) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;

vi) Criminal proceedings ought not to be scuttled at the initial stage;

vii) Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule;

viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, recognised to secure the ends of justice or prevent the abuse of the process by Section 482 Cr.P.C.

ix) The functions of the judiciary and the police are complementary, not overlapping;

x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;





xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;

xii) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

xiii) The power under Section 482 Cr..P.C. is very wide, but conferment of wide power requires the court to be cautious. It casts an onerous and more diligent duty on the court;

xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR/complaint; and

xv) When a prayer for quashing the FIR is made by the alleged accused, the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR."





15. In the case of **Pradeep Kesarwani Vs. State of Uttar Pradesh and another, SLP (Criminal) No. 11642 of 2019, decided on 02.09.2025**, the Hon'ble Supreme Court has laid down the steps to be considered by High Court while quashing petition under Section 482 of CrPC (now Section 528 of BNSS), and if the answer to all these steps is in affirmative, judicial conscious of the High Court should persuade it to quash such criminal proceedings in exercise of power vested in it under Section 482 of CrPC. These steps are reproduced as under:

- (i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the material is of sterling and impeccable quality?
- (ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.
- (iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?
- (iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

16. Having considered the principle of law as mentioned hereinabove, it is an admitted fact that the agreement to sell on the basis of which present petitioner has based his claim is neither an admitted document nor is there any proof of



payment of sale consideration to the rightful owner (M/s Kamal Coach works).

17. The claim of the petitioner accused cannot be considered as a dispute of civil nature, particularly when police has found that the document is created with intent to acquire land, pursuance to said agreement and the rightful owner has been dispossessed and a fencing is erected over the land. Therefore, this is not a fit case to exercise jurisdiction under Section 528 of BNSS.

18. In view of discussion made hereinabove, the misc. petition under Section 528 of BNSS is hereby dismissed with pending applications and stay application, if any.

(ASHOK KUMAR JAIN),J

68/CHETNA (C-13)