RAJASTHAN HIGH COURT
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HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

S.B. Criminal Miscellaneous (Petition) No. 2034/2023
CNR: RJHC010249342023
URN: CRLMP / 4426U / 2023

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1. Arvind Dave S/o Late Shri Ramratan Dave, Aged About 41 Years, R/o 1-P-50 Old Housing Board Pali Raj.
2. Abhishek Dave S/o Late Shri Ramratan Dave, Aged About 40 Years, Through Caretaker Arvind Dave R/o 1-P-50 Old Housing Board Pali Raj.
3. Smt. Priyanka Dave W/o Shri Arvind Dave, Aged About 37 Years, R/o 1-P-50 Old Housing Board Pali Raj.

----Petitioners

Versus

1. State Of Rajasthan, Through Pp
2. Pooja Dave W/o Vinod Dave D/o Late Shri Ramratan Dave, R/o Khatriyo Ka Nichala Bass Dantiyo Ki Gali Barmer Raj.

----Respondents

For Petitioner(s)	:	Mr. Amba Lal
For Respondent(s)	:	Mr. N.S.Chandawat,Dy.G.A. Mr.B.R. Bishnoi

HON'BLE MR. JUSTICE FARJAND ALI

Order

Reportable

Date of Conclusion of Arguments : 19/05/2026

Date on which Order is Reserved : 19/05/2026

Full Order or Operative Part : Full Order

Date of Pronouncement : 28/07/2026

By the Court:-

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Grievance

1. By way of filing the instant criminal misc. petition under Section 482 of the Code of Criminal Procedure, 1973, the petitioners have invoked the inherent jurisdiction of this Court for quashing of F.I.R. No. 80/2022 dated 18.07.2022 registered at Police Station Transport Nagar, District Pali for the offences punishable under Sections 420, 467, 468, 471 and 406 of the Indian Penal Code, along with all consequential proceedings arising therefrom, on the ground that the continuation of the criminal proceedings amounts to an abuse of the process of law and warrants interference by this Court in exercise of its inherent powers.

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FACTS OF THE PRESENT CASE

2. Briefly stated, the facts giving rise to the present petition are that respondent No.2, namely, Smt. Pooja Dave, lodged a complaint before the learned Additional Chief Judicial Magistrate, Pali alleging, inter alia, that she and petitioner Nos.1 and 2 are the children and legal heirs of late Shri Ramratan Dave and late Smt. Vijayalakshmi Dave, both of whom had retired from Government service and had acquired certain movable as well as immovable properties during their lifetime. It was alleged that after the demise of their father on 07.05.2021 and thereafter of their mother on 17.01.2022, disputes arose amongst the siblings with regard to succession over the estate left behind by the deceased

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parents. The complainant asserted that the petitioners, with a view to deprive her of her alleged share in the inheritance, submitted an affidavit before the concerned bank representing themselves to be the only legal heirs of the deceased account holder and, on the strength thereof, succeeded in obtaining release of the amounts lying in certain bank accounts maintained in the name of late Smt. Vijayalakshmi. Alleging that such affidavit was false and that the petitioners had thereby dishonestly withdrawn the amount standing in the accounts of the deceased while excluding the complainant from succession, accusations were levelled that the petitioners had committed offences punishable under Sections 420, 406, 467, 468 and 471 of the Indian Penal Code. Acting upon the order passed under Section 156(3) Cr.P.C., Police Station Transport Nagar, District Pali registered FIR No.80/2022 dated 18.07.2022 and commenced investigation into the allegations.

3. During the course of investigation, the Investigating Agency collected the relevant banking records, examined the witnesses and scrutinised the affidavit furnished before the bank. Significantly, despite a thorough investigation, the police did not discover any material demonstrating that the affidavit or any other document produced by the petitioners was forged, fabricated, altered or impersonated so as to constitute a "false document" within the meaning of the Penal Code. On the contrary, the investigation culminated in

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deletion of the offences punishable under Sections 467, 468 and 471 IPC, thereby implicitly acknowledging the absence of any material constituting forgery. The factual report merely proceeds on the premise that the petitioners had submitted an affidavit claiming themselves to be the legal heirs of the deceased and that such declaration was allegedly incorrect because the complainant was also one of the legal heirs. Thus, even according to the prosecution itself, the substratum of the prosecution is confined to an alleged incorrect assertion of heirship in an affidavit submitted before the bank. The dispute, therefore, essentially revolves around rival claims of succession over the estate of deceased parents and the entitlement of the parties to receive the amounts lying in the bank accounts of the deceased—a controversy which, ex facie, bears all the trappings of a civil and succession dispute rather than a criminal offence. It is under these circumstances that the petitioners have invoked the inherent jurisdiction of this Court seeking quashing of the impugned FIR and all consequential proceedings arising therefrom.

4. Heard learned counsels present for the parties and gone through the materials available on record.

5. I have bestowed my anxious consideration to the rival submissions advanced at the Bar and have meticulously perused the material available on record, including the First

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Information Report, the factual report submitted by the Investigating Agency and the documents collected during investigation. The controversy, though sought to be clothed with allegations of cheating, forgery and criminal breach of trust, essentially requires this Court to determine whether the factual allegations, even if accepted in their entirety, satisfy the indispensable statutory ingredients constituting the offences alleged. The exercise assumes greater significance because the jurisdiction under Section 482 Cr.P.C. exists precisely to prevent criminal law from being employed as an instrument of oppression where the allegations, taken at their face value, merely disclose a civil dispute. It is trite that the criminal process cannot be permitted to become a weapon for settling private scores or exerting pressure in disputes predominantly governed by civil rights. The maxim *quando aliquid prohibetur ex directo, prohibetur et per obliquum* aptly reminds the Court that what cannot directly be achieved through civil adjudication cannot indirectly be accomplished by invoking the coercive machinery of criminal law.

6. The entire prosecution case, shorn of embellishments, proceeds on the allegation that the petitioners furnished an affidavit before the bank declaring themselves to be the legal heirs of the deceased account holder and, on the strength thereof, secured release of the money lying in the bank accounts. Significantly, nowhere does the prosecution allege

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that the petitioners impersonated another person, forged the signatures of the deceased, fabricated any testamentary instrument, altered any genuine document or created a document purporting to have been executed by someone else. Equally significant is the fact that the investigating agency itself, after examining the relevant material, found no basis whatsoever to continue the allegations of forgery and consequently deleted Sections 467, 468 and 471 IPC from the case. This circumstance is not merely procedural but goes to the very root of the prosecution, for once the allegation of forgery disappears, the remaining accusation is reduced to an alleged false assertion regarding succession, a matter fundamentally falling within the domain of civil adjudication.

7. It deserves emphasis that a claim of legal heirship, even if ultimately found to be erroneous or legally unsustainable, does not ipso facto metamorphose into forgery. Every incorrect statement does not constitute a false document; every disputed assertion does not amount to fabrication; and every civil wrong cannot be elevated to the status of a criminal offence. There exists a clear and fundamental distinction between making a false claim and making a false document. Criminal jurisprudence recognises this distinction because the Penal Code punishes not the mere assertion of a claim but the dishonest creation or use of a document answering the statutory definition of forgery. The two

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concepts operate in distinct legal spheres and cannot be conflated merely because one party disputes the correctness of the other's claim.

8. In the present case, the affidavit relied upon by the prosecution is admittedly an affidavit executed by the petitioners themselves. They did not sign in the name of the complainant; they did not impersonate the deceased account holder; nor did they claim to have been authorised by any person whose authority they lacked. The affidavit simply embodies their own assertion that they were entitled to succeed to the estate. Whether such assertion is factually correct or legally sustainable is an altogether different matter, to be adjudicated in appropriate civil or succession proceedings. However, the mere assertion of a legal entitlement, even if eventually disproved, cannot by itself constitute the offence of forgery. If every disputed declaration of title or heirship were to attract criminal prosecution for forgery, every inheritance dispute pending before civil courts would simultaneously assume the character of a criminal trial, a consequence wholly alien to settled principles governing criminal jurisprudence.

9. The position becomes even more evident when the factual report is closely examined. The investigating agency has nowhere recorded a finding that the affidavit itself was fabricated, forged or manufactured. The report merely states

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that, according to the complainant, she too was a legal heir and that the petitioners allegedly excluded her while submitting the affidavit before the bank. This finding, even if accepted at its highest, only suggests that the declaration contained in the affidavit may be disputed. A disputed declaration is not synonymous with a forged document. The distinction is neither semantic nor technical; it is substantive and forms the very foundation upon which the offences relating to forgery are structured under the Penal Code.

10. Having examined the factual matrix, this Court now proceeds to analyse whether the allegations satisfy the essential ingredients of the offences alleged against the petitioners. Criminal liability cannot rest upon conjectures, assumptions or the perceived inequity of a party's conduct. It must necessarily satisfy the statutory ingredients constituting the offence alleged. It is a settled canon of criminal jurisprudence that where the foundational ingredients of an offence are absent, continuation of criminal proceedings itself becomes an abuse of the process of law. Criminal law is concerned not with moral impropriety or civil impropriety but with conduct which squarely answers the legislative definition of an offence. Consequently, before a citizen is subjected to the rigours of a criminal prosecution, the Court is duty-bound to ascertain whether the allegations, even if accepted in toto, disclose the commission of the offences alleged. The maxim

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*nullum crimen sine lege (*there can be no crime without law) aptly governs the present controversy.

11. The gravamen of the prosecution case is that the petitioners submitted an affidavit before the concerned bank asserting themselves to be the legal heirs of the deceased account holder while allegedly excluding the complainant. At the very outset, it deserves to be noticed that the affidavit is admittedly the petitioners' own affidavit. It does not bear the signatures of any third person. It is not alleged that the petitioners impersonated the complainant or the deceased. It is equally not the case of the prosecution that the affidavit was executed by pretending to be some other person or under the authority of a person who had never authorised its execution. Thus, the document originates from the petitioners themselves and merely contains their declaration regarding succession. The controversy, therefore, is not regarding the identity of the executant but only regarding the correctness of the declaration contained therein.

12. The distinction between an incorrect statement and a false document assumes decisive significance. A document does not become a forged document merely because the statements contained therein are alleged to be false. Criminal law recognises a marked distinction between the falsity of the contents of a document and the falsity of the document itself. A document becomes "false" in the eye of criminal law only

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when it is brought into existence by impersonation, unauthorised execution on behalf of another, material alteration of an existing document or procurement of execution from a person incapable of understanding its contents. Unless the document itself answers this statutory description, the offence of forgery does not arise.

13. In the present case, the petitioners neither claimed that the affidavit had been executed by the complainant nor purported to execute it under her authority. They merely asserted that they themselves were entitled to inherit the estate. Such assertion may ultimately be adjudged correct or incorrect in appropriate civil proceedings. It may even expose the maker to independent legal consequences if found deliberately false. However, a declaration of legal heirship, even if erroneous, cannot be equated with the making of a false document. Criminal jurisprudence has consistently maintained this distinction because otherwise every disputed declaration of ownership, succession or title would expose litigants to prosecution for forgery, thereby obliterating the well-recognised boundary between civil disputes and criminal offences.

14. The factual report submitted by the Investigating Agency itself fortifies this conclusion. Significantly, despite an elaborate investigation, collection of banking records and examination of witnesses, the investigating agency found no

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material warranting continuation of offences under Sections 467, 468 and 471 IPC and accordingly deleted the said offences from the case. This circumstance is of considerable significance. The investigating agency, after scrutinising the very affidavit upon which the prosecution is founded, did not record any finding that the document had been fabricated, forged, altered or executed by impersonation. The report merely proceeds on the premise that the petitioners claimed themselves to be the legal heirs while the complainant also asserted heirship. Such finding may at best indicate a disputed claim regarding succession; it does not establish the commission of forgery.

15. Equally untenable is the allegation under Section 471 IPC. The offence under Section 471 necessarily presupposes the existence of a forged document. Unless the prosecution first establishes that the document used is itself a forged document in the eye of law, the question of fraudulently using such forged document does not arise. Once the very foundation of forgery disappears, the allegation of using a forged document necessarily collapses. The superstructure cannot survive after the foundation has ceased to exist. Consequently, continuation of prosecution under Section 471 would amount to sustaining an accusation which lacks its indispensable legal substratum.

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16. The allegation of cheating under Section 420 IPC equally fails to withstand judicial scrutiny. The offence of cheating is not constituted merely because one party suffers financial prejudice or another derives pecuniary advantage. The law insists upon the existence of deception practised upon the person allegedly cheated, coupled with dishonest inducement which results in delivery of property or alteration of a valuable security. Deception is thus the soul of the offence. Absent deception practised upon the complainant, the offence cannot stand.

17. Tested on the above principles, the present prosecution conspicuously lacks the essential ingredients of cheating. The complainant does not allege that the petitioners induced her to part with any property. She does not allege that she acted upon any representation made by the petitioners. She does not allege that she delivered money or executed any document on account of any deception practised upon her. The bank may have acted upon the affidavit submitted by the petitioners, but that by itself does not satisfy the statutory ingredients of cheating vis-à-vis the complainant. The complainant was neither deceived into delivering property nor induced to alter her legal position on account of any representation made by the petitioners.

18. Even assuming, for the sake of argument, that the petitioners wrongly asserted exclusive heirship before the

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bank, the consequence would primarily concern the entitlement of the parties to succeed to the estate of the deceased. Such dispute squarely falls within the realm of succession law and civil adjudication. The remedy lies in seeking declaration of heirship, rendition of accounts, recovery of the alleged share or other civil reliefs recognised by law. Criminal prosecution cannot be invoked merely because one co-heir disputes the assertion of another regarding succession. The law of inheritance cannot be converted into an instrument of criminal prosecution merely because rival heirs assert competing claims over the estate of the deceased.

19. Much emphasis was laid by the prosecution upon the allegation that the affidavit submitted before the bank was false. Even if such allegation is accepted for the purpose of the present proceedings, the legal consequence does not automatically become one of forgery. If a person deliberately files a false affidavit before a competent authority, the law itself provides specific remedies for such conduct, including proceedings relating to false evidence, perjury or other offences specifically attracted by the facts of a given case. However, every false affidavit is not a forged affidavit. Likewise, every incorrect declaration does not become a false document. The distinction is substantive and not merely terminological. To obliterate this distinction would amount to enlarging the scope of penal provisions beyond the legislative

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intent, an approach impermissible in criminal jurisprudence where penal statutes are required to receive strict construction.

20. This Court is also unable to overlook that the entire dispute emanates from competing claims over the estate of deceased parents. Questions relating to the identity of legal heirs, their respective shares in the estate, entitlement to succession certificates and distribution of inheritance are pre-eminently matters falling within the jurisdiction of civil and succession courts. Criminal law cannot be permitted to overshadow or supplant these specialised adjudicatory mechanisms. The maxim "ubi jus ibi remedium" assures every aggrieved party an appropriate legal remedy; equally, it does not authorise substitution of one remedy for another where the legislature has consciously created distinct legal forums governing distinct rights.

21. Viewed cumulatively, therefore, this Court is of the considered opinion that the allegations contained in the FIR, the material collected during investigation and the factual report submitted by the investigating agency, even if accepted in their entirety, do not satisfy the indispensable ingredients constituting offences under Sections 420, 467, 468 or 471 IPC. At their highest, the allegations disclose a dispute concerning succession and competing claims over inheritance, coupled with an allegation that the petitioners

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furnished an incorrect declaration before the bank. Such allegations may furnish a cause of action before an appropriate civil forum or invite such proceedings as may otherwise be permissible in law regarding the affidavit, but they do not justify the continuation of a criminal prosecution for offences of cheating or forgery. To permit the prosecution to continue despite the conspicuous absence of the foundational ingredients of the alleged offences would amount to allowing the criminal process to be employed for resolution of what is, in substance, a civil inheritance dispute, an eventuality which the inherent jurisdiction of this Court under Section 482 Cr.P.C. is specifically designed to prevent.

FINAL FINDINGS

22. Having accorded thoughtful consideration to the rival submissions and having meticulously scrutinised the FIR, the factual reports submitted by the Investigating Agency and the material collected during investigation, this Court is persuaded to hold that the continuation of the impugned criminal proceedings would amount to a manifest abuse of the process of law. Criminal law cannot be invoked merely because one of the rival claimants to an estate disputes the entitlement asserted by another. The jurisdiction of the criminal court is attracted only when the allegations satisfy the indispensable statutory ingredients constituting the offence alleged. In the present case, the prosecution, even if

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accepted in its entirety, fails to traverse this indispensable legal threshold.

23. The entire edifice of the prosecution rests upon the allegation that the petitioners furnished an affidavit before the bank declaring themselves to be the legal heirs of late Smt. Vijayalakshmi and, on the strength thereof, withdrew the amounts lying in the bank accounts. Significantly, the prosecution nowhere alleges that the petitioners impersonated any person, forged the signature of the complainant or the deceased, fabricated any testamentary instrument, altered an existing document or executed any document in the name or under the authority of another person. The affidavit relied upon by the prosecution is admittedly an affidavit executed by the petitioners themselves. The dispute concerns the correctness of the declaration contained therein and not the identity of the executants.

24. The distinction between an incorrect declaration and a false document is too fundamental to be ignored. Criminal law does not criminalise every erroneous assertion of fact. A document does not become forged merely because its contents are disputed or because the claim asserted therein is ultimately found to be unsustainable. A false claim regarding ownership, title or succession cannot automatically be equated with the making of a false document. Unless the

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document itself satisfies the statutory requirements of a "false document", the offences relating to forgery remain wholly inapplicable. To hold otherwise would obliterate the carefully maintained distinction between civil disputes concerning rights and criminal offences affecting public justice.

25. Equally significant is the circumstance that the Investigating Agency itself, after conducting an elaborate investigation, collecting banking records and examining all relevant witnesses, deleted the offences punishable under Sections 467, 468 and 471 IPC. The factual report does not record any finding that the affidavit was fabricated, forged, altered or executed through impersonation. On the contrary, the report merely concludes that according to the complainant she was also a legal heir and that the petitioners had excluded her while furnishing the affidavit before the bank. Thus, even the prosecution material stops considerably short of establishing the existence of any forged document. Once the very foundation of forgery disappears, the allegation under Section 471 IPC necessarily collapses, for a document which is not forged cannot legally become a forged document merely because one of the parties disputes the correctness of its contents.

26. Likewise, the ingredients of Section 420 IPC are equally conspicuous by their absence. The offence of cheating

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necessarily postulates deception practised upon the person allegedly cheated and dishonest inducement resulting in delivery of property or alteration of a valuable security. The complainant was never induced by the petitioners to part with her property. She was not persuaded to execute any document. She did not alter her legal position on account of any representation made by the petitioners. The allegations merely indicate that the bank acted upon the affidavit submitted by the petitioners. Such circumstances may give rise to questions concerning succession, entitlement or distribution of the estate, but they do not satisfy the essential statutory ingredients constituting the offence of cheating as contemplated by law.

27. The Court also finds considerable force in the submission advanced on behalf of the petitioners that merely because an affidavit is alleged to contain an incorrect declaration regarding legal heirship, it does not automatically become a forged document. If the complainant genuinely believes that the affidavit contains false statements, the law itself provides distinct statutory remedies for initiating proceedings in accordance with law for filing a false affidavit, if the ingredients thereof are otherwise established. However, the existence of such independent remedies itself demonstrates that every allegedly false affidavit is not intended by the legislature to constitute forgery. Acceptance of the prosecution's submission would render the distinction

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between perjury, false declaration and forgery wholly illusory, thereby enlarging the scope of penal provisions beyond their legislative intent.

28. It also deserves emphasis that the present controversy essentially concerns competing claims of succession amongst siblings over the estate of their deceased parents. Such disputes are ordinarily adjudicated by competent civil courts or succession courts upon appreciation of evidence regarding inheritance, succession and entitlement. Criminal prosecution cannot be permitted to supplant those adjudicatory mechanisms merely because one claimant disputes the declaration made by another. The maxim *actus curiae neminem gravabit* obliges constitutional courts to ensure that judicial process itself does not become an instrument of oppression, while the maxim *quando aliquid prohibetur ex directo, prohibetur et per obliquum* equally mandates that criminal law should not be indirectly employed for securing what is essentially a civil advantage.

29. The inherent jurisdiction preserved under Section 482 Cr.P.C. exists precisely to prevent such misuse of criminal process. Where the allegations, taken at their face value, fail to constitute the ingredients of the offences alleged and continuation of criminal proceedings would merely compel parties to undergo the ordeal of a criminal trial notwithstanding the conspicuous absence of criminality, the

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constitutional obligation of this Court is to interdict such proceedings at the threshold. Permitting the prosecution to continue despite the absence of the foundational ingredients of cheating and forgery would not advance the cause of criminal justice; rather, it would convert criminal law into a coercive mechanism for resolution of a purely private inheritance dispute. Such an approach is wholly impermissible in law.

30. Consequently, this Court is of the considered opinion that the allegations contained in the FIR, the material collected during investigation and the factual reports submitted by the Investigating Agency, even if accepted in their entirety, disclose no offence punishable under Sections 420, 467, 468 or 471 IPC. The dispute is overwhelmingly civil in character and revolves around rival claims of succession. The continuation of criminal proceedings in such circumstances would amount to an abuse of the process of the Court and would result in miscarriage of justice.

OPERATIVE ORDER

31. Consequently, the criminal misc. petition succeeds and is hereby allowed.

32. FIR No.80/2022 dated 18.07.2022 registered at Police Station Transport Nagar, District Pali for the offences under Sections 420, 467, 468, 471 and 406 IPC, together with all consequential proceedings arising therefrom, including the

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investigation, charge-sheet, if any, and every proceeding founded upon the impugned FIR, are hereby quashed and set aside qua the present petitioners.

33. It is, however, clarified that this Court has expressed no opinion on the inter se civil rights, succession, inheritance or proprietary claims of the parties, which shall remain open to be adjudicated before the competent civil forum in accordance with law. It is further clarified that if any competent authority is otherwise empowered under law to examine the correctness of the affidavit or initiate proceedings specifically contemplated by statute in relation thereto, this order shall not preclude such authority from acting strictly in accordance with law. Subject to the above clarification, all pending applications, if any, also stand disposed of.

(FARJAND ALI),J

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