



2026:UHC:1987

Judgement Pronounced on:20.03.2026

Judgement Reserved on:05.01.2026

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Criminal Misc. Application (C-482) No. 2161 of 2023

Vikas KirolaApplicant

Versus

State of Uttarakhand & AnotherRespondents

Presence:

Mr. R.S. Sammal, learned counsel for the Applicant.
Mr. B.C. Joshi, learned A.G.A. for the State of Uttarakhand.
Ms. Nipush Mola Joshi, learned counsel for the Respondent No.2.

Hon'ble Ashish Naithani, J.

1. The present application under Section 482 of the Code of Criminal Procedure has been filed by the applicant seeking quashing of the charge-sheet dated 10.07.2023 as well as the cognizance and summoning order dated 23.08.2023 passed in Criminal Case No. 4461 of 2023, *State vs. Vikas Kirola and others*, pending before the Court of learned Chief Judicial Magistrate, Nainital. The applicant has also prayed for quashing of the entire criminal proceedings arising out of FIR No. 16 of 2023, registered at Police Station Tallital, District Nainital, under Sections 120-B, 420 and 506 of the Indian Penal Code.
2. The State's case, in brief, is that the informant/respondent no.2 lodged a First Information Report on 20.03.2023 at Police Station Tallital, District Nainital, alleging that the present applicant along with three co-accused persons, namely Ganga Singh, Bhim Singh and Dhan Singh, entered into a criminal conspiracy in relation to a land transaction. It



was alleged that the accused persons induced the informant to purchase a piece of land measuring 11 mutthis situated in Khata No. 20, Village Suryagaon, Patti Chopra, Tehsil Nainital, and in furtherance thereof a sale deed was executed on 23.02.2022.

3. According to the allegations made in the FIR, pursuant to the said transaction, a total amount of approximately Rs. 20 lakhs was taken from the informant by the accused persons. However, subsequently, it was discovered that the actual land available on the spot measured only about 2 mutthis, instead of the promised 11 mutthis. On this basis, it was alleged that the accused persons had cheated the informant and caused wrongful loss to him.
4. During investigation, the Investigating Officer submitted charge-sheet No. 25 of 2023 dated 10.07.2023 against the present applicant under Sections 120-B, 420 and 506 IPC, while the other co-accused persons were charge-sheeted under Section 420 IPC. The learned Magistrate, upon perusal of the charge-sheet and material collected during investigation, took cognizance and summoned the applicant and other accused persons vide order dated 23.08.2023 to face trial. Aggrieved by the aforesaid charge-sheet and summoning order, the applicant has approached this Court by way of the present application under Section 482 Cr.P.C. seeking quashing of the criminal proceedings.
5. Heard learned counsel for the parties and perused the records.
6. Learned counsel for the applicant submits that the entire prosecution case, even if taken at its face value, does not disclose the commission of any offence against the applicant. The role attributed to the applicant is limited to having suggested to the informant, who is his real brother, to purchase the land from the co-accused persons. There is no allegation that the applicant was the owner, vendor, or beneficiary of the sale transaction.



7. It is further submitted that no part of the alleged sale consideration was ever paid to or received by the applicant. The charge-sheet itself reflects that the sale deed was executed between the informant and the co-accused persons, and the applicant was not a party to the said document. In the absence of any material showing wrongful gain or dishonest intention on his part, the ingredients of cheating are not made out.
8. Learned counsel also contends that the allegation of criminal conspiracy is bald and unsupported by any material indicating prior meeting of minds or agreement between the accused persons. The mere relationship between the parties or presence at the time of transaction cannot give rise to an inference of conspiracy.
9. Lastly, it is argued that the dispute essentially arises out of a land transaction and alleged discrepancy in measurement, for which appropriate civil remedies are available. The criminal proceedings have been initiated only to pressurize the applicant, and continuation of the same would amount to abuse of the process of law.
10. Per contra, learned counsel for the State and learned counsel for respondent no.2 submit that the FIR and the material collected during investigation clearly disclose a prima facie case against the applicant. It is alleged that the applicant actively participated in inducing the informant to enter into the transaction and assured him regarding the extent of land.
11. It is further submitted that the applicant being closely related to the informant played a significant role in gaining his confidence and facilitating the execution of the sale deed. The allegations indicate that the applicant acted in concert with the co-accused persons and was part of the overall design to cheat the informant.



12. Learned counsel contends that at the stage of cognizance and summoning, the Court is only required to see whether a prima facie case exists, and not to conduct a meticulous appreciation of evidence. The defence taken by the applicant involves disputed questions of fact which can only be adjudicated during trial.
13. It is lastly submitted that the charge-sheet has been filed after due investigation and the learned Magistrate has rightly taken cognizance. Therefore, no interference is warranted in exercise of inherent jurisdiction, and the application deserves to be dismissed.
14. Upon due consideration, it appears that the dispute essentially arises out of a land transaction between the informant and the co-accused persons. The allegations primarily relate to the execution of a sale deed dated 23.02.2022 with respect to a piece of land situated at Village Suryagaon, Patti Chopra, Tehsil Nainital. The informant alleges that he was induced to purchase land measuring 11 mutthis and that a sum of approximately Rs.20 lakhs was paid in connection with the said transaction, whereas subsequently it was discovered that the land available on the spot measured only about 2 mutthis.
15. However, what is significant to note is that the present applicant was neither the recorded owner nor the vendor of the land in question. The sale deed, which forms the basis of the transaction, was executed between the informant and the co-accused persons. There is no material on record to show that the applicant was a party to the sale deed or that any part of the sale consideration was paid to him. The role attributed to the applicant in the FIR is limited to the allegation that he suggested to the informant, who happens to be his real brother, to purchase the land from the other accused persons.



16. In criminal law, the mere act of giving a suggestion or advice to enter into a transaction cannot by itself constitute the offence of cheating unless it is accompanied by dishonest or fraudulent intention at the very inception of the transaction. In the present case, the FIR and the charge-sheet do not disclose any material to indicate that the applicant had any such dishonest intention or that he derived any wrongful gain from the transaction in question.
17. The allegation of criminal conspiracy levelled against the applicant also appears to be unsupported by any substantive material. For an offence of conspiracy, there must be material to demonstrate a prior meeting of minds between the accused persons to commit an illegal act. Apart from a bald assertion that the applicant acted in concert with the co-accused persons, there is no material indicating any agreement, overt act, or participation on the part of the applicant which would prima facie establish the existence of a conspiracy.
18. It is also noteworthy that the notices allegedly issued by the informant prior to lodging of the FIR reflect varying amounts stated to have been paid in connection with the transaction. Such inconsistencies in the version of the informant prima facie create doubt regarding the manner in which the allegations have been developed over time. These circumstances further reinforce the conclusion that the role of the applicant has been sought to be introduced subsequently without any concrete supporting material.
19. The allegations, when examined in their entirety, reveal that the gravamen of the dispute relates to the measurement and extent of land



conveyed under the sale deed. Such disputes are essentially civil in nature and ordinarily fall within the domain of civil adjudication. The criminal process cannot be permitted to be used as a means of settling scores in matters arising out of contractual or property transactions unless the essential ingredients of the alleged criminal offences are clearly made out.

20. In the considered opinion of this Court, the material available on record does not disclose any prima facie offence against the present applicant. The continuation of the criminal proceedings against him, in the absence of specific and credible allegations demonstrating his involvement in the alleged acts of cheating or conspiracy, would amount to an abuse of the process of Court.

21. Therefore, this Court finds that the case against the applicant falls within the category of cases where the inherent jurisdiction of this Court is required to be exercised to prevent miscarriage of justice and to secure the ends of justice.

ORDER

In view of the discussion made hereinabove and having regard to the nature of allegations contained in the FIR as well as the material collected during investigation, this Court is of the considered opinion that the essential ingredients of the offences alleged against the present applicant are not made out. The role attributed to the applicant is limited and does not disclose any material indicating dishonest intention or active participation in the alleged transaction so as to attract criminal liability.

The application is, therefore, **allowed**.



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The charge-sheet dated 10.07.2023, the cognizance and summoning order dated 23.08.2023, as well as the entire proceedings of Criminal Case No. 4461 of 2023, State vs. Vikas Kirola and others, pending before the Court of learned Chief Judicial Magistrate, Nainital, are hereby quashed, so far as they relate to the present applicant.

(Ashish Naithani, J.)

Dated:20.03.2026

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