

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**Cr. MP(M) No. 273 of 2026 and  
Cr.MMO Nos. 823 & 1136 of 2025**

**Reserved on: 24.4.2026**

**Date of Decision: 3.6.2026.**

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**Cr.MP(M) No. 273 of 2026**

Sanjeev Kumar Sharma .... Petitioner

Versus

State of HP & ors. .... Respondents

**Cr. MMO No. 823 of 2025**

Abhay Bahadur Singh & anr. .... Petitioners

Versus

State of HP & anr. .... Respondents

**Cr. MMO No. 1136 of 2025**

Sangram Singh .... Petitioner

Versus

State of HP & ors. .... Respondents

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*Coram*

*Hon'ble Mr Justice Rakesh Kainthla, Judge.*

*Whether approved for reporting?<sup>1</sup> No.*

**For the Petitioners** : Mr Sudhir Thakur, Senior Advocate, with Mr Karun Negi, Advocate, in Cr.MP(M) No. 273 of 2026, Ms Ashima Mandla, Advocate (through video conferencing) and Ms Parul Negi, Advocate (present in the Court) in Cr.MMO No. 823 of 2025 and Mr Karan Singh Kanwar, Advocate, in Cr.MMO No. 1136 of 2025

**For the Respondents/ State.** : Mr Ajit Sharma, Deputy Advocate General, for respondent No. 1, State in Cr.MP(M) No. 273 of 2026; Cr.MMO No. 823 of 2025; and for respondents No.1 to 3/State in Cr.MMO No. 1136 of 2025

**For the Respondents** : Mr Sudhir Thakur, Senior Advocate, with Mr Karun Negi, Advocate, for respondent No.2 in Cr.MMO No. 823 of 2025 and for respondent No.4 in Cr.MMO No. 1136 of 2025.

**Respondents No.3A, 4 and 6 proceeded against ex-parate.**

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*Rakesh Kainthla, Judge*

The present petitions have been filed against the order dated 10.6.2025, passed by the learned Chief Judicial Magistrate, Nahan, District Sirmour, H.P. (learned Trial Court) in

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<sup>1</sup> Whether reporters of Local Papers may be allowed to see the judgment? Yes.

an application filed under Section 156(3) of the Code of Criminal Procedure (Cr.P.C.).

2. Since all the petitions have arisen out of the common order, they are being taken up together for consideration.

3. Briefly stated, the facts giving rise to the present petitions are that the applicant, Sanjiv Kumar Sharma, filed an application before the learned Trial Court seeking a direction to the Police of Police Station Kala Amb to register an FIR against the accused. It was asserted that accused Nos. 1 and 2, along with their mother, late Smt. Leela Kumari were the owners in possession of the land measuring 232-14 bighas, comprised in Khata/Khatuni No. 1min/1min, Khasra No.181/86, 182/86 and 470/85, situated at Mohal Ogli, Tehsil Nahan, District Sirmour, H.P., as per the Jamabandi for the year 2000-2001. Accused No.2 and 3 inherited the estate of Leela Kumari based on the Will executed by her. Accused No. 2 was acting as a General Power Attorney of Smt. Leela Kumari and he executed various agreements, receipts and sale deeds on her behalf. The accused entered into an agreement to sell the land to the applicant on 29.11.2004 in the presence of Arun Kumar Singla. This agreement

was duly attested by Purshotam Singh Saini, Notary Public. The accused handed over the possession of the entire land to the applicant as per the agreement. The applicant also sold some portion of the land to third parties who developed and set up the industries. The applicant paid a total sale consideration of ₹1,49,66,250/- to the accused. The applicant also spent money on the development of the land. He requested the accused to execute the sale deed, and a sale deed of 126.16 bigha out of the total land measuring 230-05 bigha was executed in favour of the applicant. The accused promised to execute the sale deed of the remaining portion of the land measuring 103-09 bigha. The applicant asked the accused repeatedly to execute the sale deed, but they put off the matter on one pretext or another. The accused No.2 entered the land in February 2024 with many persons and threatened the applicant and his labourers to leave the land. The applicant thereafter requested accused Nos. 1 and 2 to execute the sale deed in his favour, but they put off the matter. The applicant also filed a civil suit in the Court of Learned Civil Judge, Nahan, which is pending. The accused belongs to the ruling party. The applicant approached the Director General of Police with the complaint, who forwarded it to Superintendent of

Police, Sirmour, H.P., for investigation. An enquiry was conducted but no case was registered. Hence, the applicant filed an application before the learned Chief Judicial Magistrate, Nahan, H.P. (learned Trial Court) for taking action against the accused as per the law.

4. Learned Trial Court held that mere pendency of the civil suit is no ground for not initiating criminal proceedings. Mere failure to execute the sale deed does not amount to cheating unless there is an intention to defraud the other party from the beginning. There is no allegation that any document was forged. The allegations in the application disclosed the commission of offences punishable under Section 329(3), 115(2), 351(2) and 352 of Bharatiya Nyaya Sanhita, 2023 (BNS). Hence, the application was forwarded to the SHO for the registration of the FIR and the proper investigation.

5. Being aggrieved by the order passed by the learned Trial Court and the registration of the FIR, three separate petitions have been filed.

6. I have heard Ms. Ashima Mandla, learned counsel for the petitioners/accused Abhay Bahadur Singh and Ajay Bahadur

Singh, Mr. Karan Singh Kanwar, learned counsel for the petitioner/accused Sangram Singh, Mr. Sudhir Thakur, learned Senior Advocate, assisted by Mr. Karun Negi, learned counsel for the applicant Sanjeev Kumar Sharma and Mr. Ajit Sharma, learned Deputy Advocate General, for the respondent-State.

7. Ms Aashima Mandla, learned counsel for the petitioners/accused Abhay Bahadur Singh and Ajay Bahadur Singh, submitted that an FIR registered after 1.7.2024 would be registered and investigated as per the provisions of BNSS. The Magistrate must hear the police and conduct an enquiry before passing an order as per Section 175(3) of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). In the present case, no such enquiry was conducted, and the learned Magistrate erred in passing the order. An application under Section 156 (3) of the CrPC is required to be accompanied by an affidavit that the applicant had approached the police and the police had not taken any action. The applicant has to approach the Station House Officer of the area concerned, and approaching any other police official is not a proper compliance. The application was filed after an inordinate delay for which no explanation was provided. The delay in reporting the matter to the police without a proper

explanation makes the prosecution's case highly suspect. The dispute between the parties is regarding the execution of the sale deed based on the agreement to sell, which is purely a civil dispute. The FIR is being lodged to compel the accused to meet the unlawful demands of the complainant. Hence, she prayed that the petitions filed by the accused/petitioners be allowed and the FIR be quashed. She relied upon the following judgments in support of her submission: -

- (i) *Om Prakash Ambadar Vs. State of Maharashtra* 2025 SCC OnLine SC 238;
- (ii) *Ranjit Singh Bath Vs. Union Territory of Chandigarh*, 2025 SCC OnLine 1479;
- (iii) *CBI Vs. R.R. Kishore* (2023) 15 SCC 339;
- (iv) *Vijay Sharma Vs. State of Rajasthan*, 2024 SCC OnLine Raj 2897;
- (v) *State of Andhra Pradesh Vs. M. Madhusudhan Rao* (2008) 15 SCC 582;
- (vi) *Preeti Gupta Vs. State of Jharkhand* (2010) 7 SCC 667;
- (vii) *Munshi Ram and Ors. Vs. Delhi Administration*, 1967 SCC OnLine SC 80;
- (viii) *V.Y. Jose Vs. State of Gujarat* (2009) 3 SCC 78; and
- (ix) *State of Harayana and ors. Vs. Bhajan Lal and ors.* 1992 Supp (1) SCC 335

8. Mr. Karan Singh Kanwar, learned counsel for the petitioner/accused Sangram Singh, adopted the submissions of Ms. Aashima Mandala, and submitted that the FIR has been lodged to compel the petitioners to execute the sale deed. The Civil Court is seized of the matter, and recourse to criminal proceedings is not justified. Hence, he prayed that the present petition be allowed and the FIR be quashed against the petitioners/accused.

9. Mr. Ajit Sharma, learned additional Advocate General for the respondent/State, submitted that the police have only registered the FIR and the investigation is continuing. The police would submit a cancellation report in case no cognizable offence is made out. The Court should not interfere with the investigations. Therefore, he prayed that the present petition be dismissed.

10. Mr Sudhir Thakur, learned Senior Advocate for the applicant/respondent No.2, submitted that the applicant had made a specific allegation of cheating, forgery, criminal intimidation, intentional insult, criminal trespass and causing hurt. These allegations are to be taken as correct at this stage. An

FIR cannot be quashed at the preliminary stage unless no case is made out or some provision of law bars the registration of the FIR. In the present case, no such circumstances have been established. The Magistrate has passed a detailed order. The Learned Magistrate had erred in holding that no offence of cheating or forgery was made out. Mere pendency of the civil suit is no bar to the continuation of the criminal proceedings. Therefore, he prayed that the present petition be dismissed. He relied upon the following judgments in support of his submission: -

- (i) *Vipasa Vs. State of H.P. MANU/HP/0346/2022;*
- (ii) *Sakiri Vasu Vs. State of U.P. & ors. MANU/SC/8179/2007;*
- (iii) *Suresh Chand Jain Vs. State of Madhya Pradesh and ors. MANU/SC/0014/2001;*
- (iv) *Mohd. Yousuf Vs. Afaq Jahan & ors., MANU/SC/8888/2006;*
- (v) *Varinder Singh Vs. Nirmala Devi & ors. MANU/HP/2891/2025;*
- (vi) *Meenakshi Sharma Vs. State of H.P. & ors. MANU/HP/1015/2021; and*

11. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

12. The law relating to quashing of criminal cases was explained by the Hon'ble Supreme Court in *B.N. John v. State of U.P.*, 2025 SCC OnLine SC 7 as under: -

“7. As far as the quashing of criminal cases is concerned, it is now more or less well settled as regards the principles to be applied by the court. In this regard, one may refer to the decision of this Court in *State of Haryana v. Ch. Bhajan Lal*, 1992 Supp (1) SCC 335, wherein this Court has summarised some of the principles under which FIR/complaints/criminal cases could be quashed in the following words:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(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 based on 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 concerned Act (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 concerned Act, 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 a private and personal grudge.” *(emphasis added)*

8. Of the aforesaid criteria, clause no. (1), (4) and (6) would be of relevance to us in this case.

In clause (1), it has been mentioned that 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, then the FIR or the complaint can be quashed.

As per clause (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 dated by the Magistrate as contemplated under Section 155 (2) of the CrPC, and in such a situation, the FIR can be quashed.

Similarly, as provided under clause (6), if there is an express legal bar engrafted in any of the provisions of the CrPC or the concerned Act under which the criminal proceedings are instituted, such proceedings can be quashed.”

13. This position was reiterated in *Ajay Malik v. State of Uttarakhand*, 2025 SCC OnLine SC 185, wherein it was observed:

“8. It is well established that a High Court, in exercising its extraordinary powers under Section 482 of the CrPC, may issue orders to prevent the abuse of court processes or to secure the ends of justice. These inherent powers are neither controlled nor limited by any other statutory provision. However, given the broad and profound nature of this authority, the High Court must exercise it sparingly. The conditions for invoking such powers are embedded within Section 482 of the CrPC itself, allowing the High Court to act only in cases of clear abuse of process or where intervention is essential to uphold the ends of justice.

9. It is in this backdrop that this Court, over the course of several decades, has laid down the principles and guidelines that High Courts must follow before quashing criminal proceedings at the threshold, thereby pre-

empting the Prosecution from building its case before the Trial Court. The grounds for quashing, *inter alia*, contemplate the following situations : (i) the criminal complaint has been filed with *mala fides*; (ii) the FIR represents an abuse of the legal process; (iii) no *prima facie* offence is made out; (iv) the dispute is civil in nature; (v.) the complaint contains vague and omnibus allegations; and (vi) the parties are willing to settle and compound the dispute amicably (*State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335*).

14. A similar view was taken in *Rajendra Bihari Lal v. State of U.P., 2025 SCC OnLine SC 2265*, wherein it was observed:

“70. The aforesaid decisions of this Court make it clear that where the High Court is satisfied that the process of any court is being abused or likely to be abused or that the ends of justice would not be secured, it is not only empowered but also obligated under the law to exercise its inherent powers. The provision does not confer any new power on the High Court but rather saves the power which the High Court already possesses, from before the enactment of the legislation, by reason of its very existence. In exercise of its power, it would be legitimate for the High Court to quash any criminal proceedings if the High Court finds that the initiation or continuation of it may lead to abuse of process of court, and quashing of the proceedings would serve the ends of justice.”

15. The present petitions are to be decided as per the parameters laid down by the Hon’ble Supreme Court.

16. The informant/applicant/respondent No.2 specifically asserted in para-7 of the application that the accused person belongs to the ruling party of the State, and the applicant had an

apprehension that the accused persons would manage things in their favour; hence, he approached the Director General of Police and emailed the complaint to the Director General of Police. In *Ranjit Singh Bath* (supra), the applicant had approached the Inspector General of Police, Chandigarh, who marked his complaint to the Economic Offences Wing of Chandigarh Police. It was laid down by the Hon'ble Supreme Court that Section 154(1) requires that the information regarding the commission of a cognizable offence has to be furnished to an officer in charge of the Police Station. When the complaint was not made to the officer in charge of the Police Station but to some other officer, there is no compliance with Section 154(1), and it is not permissible for him to approach the learned Magistrate under Section 156(3) of the Cr.PC. It was observed:

7. The requirement of sub-Section (1) of Section 154 is that information regarding the commission of a cognizable offence has to be furnished to an officer Incharge of a Police Station. In this case, obviously, the said compliance was not made. It is stated that the Inspector General of Police forwarded a complaint to the Economic Offences Wing. Sub-Section (3) of Section 154 comes into picture only when, after a complaint is submitted to the Officer In-Charge of Police Station or information is provided to the Officer In-Charge of Police Station regarding the commission of a cognizable offence, the Officer In-Charge refuses or neglects to register a First Information Report.

8. Sub-Sections (1) and (3) of Section 154 of the CrPC are the two remedies available for setting the criminal law in motion. Therefore, this Court held that before a complainant chooses to adopt a remedy under Section 156(3) of the CrPC, he must exhaust his remedies under sub-Sections (1) and (3) of Section 154 of the CrPC, and he must make those averments in the complaint and produce the documents in support. However, in this case, the second respondent did not exhaust the remedies. In this view of the matter, we find that both the learned Magistrate and the High Court have completely ignored the binding decision of this Court in the case of *Priyanka Srivastava (2015) 6 SCC 287*.

9. We, therefore, quash and set aside both the impugned orders and quash and set aside all the further steps taken on the basis of the order dated 14<sup>th</sup> June, 2017, passed by the learned Judicial Magistrate.

17. This judgment is binding upon this Court; therefore, the order passed by the learned Magistrate and the FIR registered based on the order passed by the learned Magistrate are liable to be quashed on this short ground alone.

18. Since the order passed by the learned Magistrate and the FIR are being quashed on the technical ground of non-compliance with Section 154 of the Cr.PC and the applicant would have an option of approaching the learned Magistrate again after complying with the requirement of Section 154 of the Cr.PC as per the judgment of Hon'ble Supreme Court in *Ranjeet Singh Bath* (supra), therefore, it is not necessary to adjudge the other pleas

taken by the petitioners and urged by Ms Aashima Mandala, learned counsel for the petitioners.

19. This Court is quashing the FIR and the order passed by the learned Magistrate because of non-compliance with Section 154 of the Cr.PC, therefore, the petition filed by the applicant along with an application for condonation of delay against the same order would become infructuous.

20. In view of the above, the Cr.MMO Nos. 823 of 2025 and 1136 of 2025 are allowed, and the order dated 10.6.2025, passed by the learned Chief Judicial Magistrate, Nahan, District Sirmour, H.P., in Cr.MA No. 136 of 2025 and FIR No. 97 of 2025, dated 13.6.2025 for the commission of offences punishable under Sections 447, 323, 504 and 506 of IPC, registered at Police Station, Kala Amb, District Sirmour, H.P., are ordered to be quashed. Cr.MP(M) No. 273 of 2026 filed by the applicant/petitioner against this order has become infructuous and is dismissed as such. The pending application(s), if any, also stand disposed.

21. The observation made herein before shall remain confined to the disposal of the instant petitions and will have no bearing whatsoever on the merits of the case.

**(Rakesh Kainthla)**  
**Judge**

**3<sup>rd</sup> June, 2026**  
(Chander)