

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

**Cr. MMO No. 153 of 2025**

**Reserved on: 17.12.2025**

**Date of Decision: 1.1.2026**

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Ashutosh Gupta ...Petitioner

Versus

State of H.P. & others ...Respondents

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*Coram*

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

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

For the Petitioner : Mr. Ashok Kumar Tyagi,  
Advocate.

For respondents No. 1 to 3 : Mr. Prashant Sen, Deputy  
Advocate General.

For respondents No. 4 & 5 : Mr. Bimal Gupta, Senior  
Advocate, with Ms. Simran,  
Advocate.

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**Rakesh Kainthla, Judge**

The petitioner has filed the present petition for quashing of FIR No. 102/2024, dated 30.6.2024, registered at Police Station Puruwala, District Sirmour, HP, for the commission of offences punishable under Sections 451, 447 and 506 of the Indian Penal Code, 1860 (IPC).

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

2. Briefly stated, the facts giving rise to the present petition are that respondent No.5/informant Keshav Sharma made a complaint to the police that he was posted as a Manager in Himalayan International Food Company, Shubhkhera, Paonta Sahib. Manmohan Malik, the owner of the factory, owns the house and land in Khasra No.206/155/63, Mauja Ambwala Singpura. A civil suit was pending before the High Court. The High Court directed Manmohan Malik to vacate five rooms and the kitchen in CWP No. 7719/2021 and CMP No. 8402 of 2024. Manmohan Malik handed over the possession of 05 rooms and the kitchen to Ashutosh Gupta (the present petitioner), designated partner of Manverse Pharma. The Court directed Manmohan Malik to vacate the building on or before 23.6.2024. He complied with the orders of the Court and removed his articles. He deputed Deep Chand and Sant Kumar to look after the property. Ashutosh Gupta and Man Singh threatened the workers on 30.6.2024 at 5.30 PM and threw them out of the premises in possession of Manmohan Malik. The locks were put on the main gate and the boundary wall to oust Manmohan Malik. The police registered the FIR and investigated the matter.

3. Being aggrieved by the registration of the FIR and the investigation, the petitioner has filed the present petition asserting that Manmohan Malik was Director of APJ Laboratories, Paonta Sahib, District Sirmour, H.P., which had availed a loan from Punjab National Bank (PNB). The loan was subsequently transferred to HP State Cooperative Bank. The company failed to repay the loan, and proceedings under the SARFAESI Act were initiated. The bank took over the possession of the company's property comprised in Khata/Khatauni No. 68/89, Khasra No.205/155/63, 166/84, 164/84, 149/86, 167/151, Kita-6, measuring 27-17 bigha, situated in Mauza Ambwala Singhpura, Tehsil Paonta Sahib, District Sirmour, H.P. Manmohan Malik filed a writ petition before this Court, which was registered as CWP No. 7719 of 2021, titled M/s APJ Laboratories Vs. HP State Cooperative Bank. The Court ordered the auction of the property, but no bidder participated. The Court permitted the Cooperative Bank to sell the property by private negotiation. The petitioner filed an application before this Court, which was registered as CMP No. 3179 of 2024. The petitioner's company purchased the property from HP State Cooperative Bank in a private negotiation for ₹12.52 crores. The

Court issued a direction to Manmohan Malik to hand over the possession of the property to the petitioner. Manmohan Malik hindered the delivery of the possession and ultimately delivered the possession pursuant to the order passed by the Court. The Court granted time to Manmohan Malik to remove his belongings from the portion of the house which was purchased by the petitioner. Manmohan Malik removed the fixtures from the building, and the matter was reported to the police. When Manmohan Malik came to know about this fact, he lodged a false complaint against the petitioner. He has also filed a civil suit, but could not get any interim order from the Court. He approached the Court by filing CMP No. 11391 of 2024, but this application was dismissed by the Court. He filed another Civil Writ Petition, which was registered as CWP No. 13328 of 2024 and was dismissed as not being maintainable. The petitioner never claimed any right over Khasra No. 206/155/63 leased to Manmohan Malik by the informant. The FIR was registered to pressurise the petitioner to surrender his claim. The matter is civil in nature and is being given a criminal colour. The ingredients of the commission of offences punishable under Sections 451, 457 and 506 of the IPC are not satisfied. The Civil

Court is seized of the matter and is to decide the rights of the parties. The continuation of the proceedings amounts to an abuse of the process of the Court. Therefore, it was prayed that the present petition be allowed and the FIR and consequential proceedings arising out of the FIR be quashed.

4. The petition is opposed by respondents No.1 to 3 by filing a reply making preliminary submissions regarding the lack of maintainability and cause of action. It was asserted that the police got the disputed land demarcated through the revenue agency. Tehsildar issued a report stating that Keshav Dutt is the owner-in-possession of Khasra No. 206/155/63, measuring 1-03-00 bigha, which was leased out to Manmohan Malik. A big and small gate abutted the path constructed upon Khasra No.206/155/63. A residential house was constructed on the spot, a portion of which falls in the land owned by Keshav Dutt. The main door constructed on Khasra No. 206/155/63 was found locked from the inside. Five rooms were constructed upon Khasra No.205/155/63, which is in possession of the petitioner. The dispute between the parties is civil, but the complaint discloses the commission of a cognizable offence. Therefore, it was prayed that the present petition be dismissed.

5. A separate reply was filed by respondents No. 4 and 5 taking preliminary objections regarding lack of maintainability and the petitioner having no right, title or interest over Khasra No. 206/155/63 owned by respondent No.5 and leased to respondent No.4. It was asserted that the petitioner took forcible possession of the building constructed on Khasra No. 206/155/63 in possession of respondent No.5 Manmohan Malik. The petitioner locked the main door of the gate of the boundary wall with the clear intention of getting a share of the residence. The dispute is criminal, and mere pendency of the civil suit will not make it civil. The petitioner twisted the facts to suit his version. Respondent No. 4 has a right over the building constructed over Khasra No.206/155/63. Abhay Malik, who was a partner of the petitioner, sent a message to Mr B.K. Sharma, which was forwarded to the respondents. This message shows the manner in which the possession was taken. The petitioner trespassed into the building in possession of respondent Nos.4 and 5. Hence, it was prayed that the present petition be dismissed.

6. A rejoinder denying the contents of the reply filed by respondent Nos. 4 and 5 and affirming those of the petition was filed.

7. I have heard Mr Ashok Kumar Tyagi, learned counsel for the petitioner/accused, Mr Prashant Sen, learned Deputy Advocate General for respondents no.1 to 3/State and Mr Bimal Gupta, learned Senior Counsel, assisted by Ms Simran, learned counsel for respondents No.4 and 5.

8. Mr Ashok Kumar Tyagi, learned counsel for the petitioner, submitted that the allegations in the FIR do not constitute the commission of any cognizable offence. A civil dispute is being converted into a criminal case, which is impermissible. Therefore, he prayed that the present petition be allowed and the FIR are consequential proceedings arising out of it be quashed. He relied upon the judgment of Hon'ble Supreme Court in *Ankush Singh Vs. State of Uttar Pradesh, 2025 SCC OnLine SC 2060* and *Ganesh Dutt and another Vs. State of HP and others 2025 HHC 10439* in support of his submission.

9. Mr Prashant Sen, learned Deputy Advocate General, for respondents No.1 to 3/State submitted that the allegations in

the FIR, *prima facie*, show the commission of a cognizable offence. Mere pendency of the civil dispute is not sufficient to quash the FIR. Hence, he prayed that the present petition be dismissed.

10. Mr Bimal Gupta, learned Senior Counsel for respondents No.4 and 5, adopted the submission of Mr Prashant Sen, learned Deputy Advocate General and submitted that the door was locked from inside, which shows the trespass. The petitioner has nothing to do with the building in possession of respondents No.4 and 5, and he had locked the gate to deprive respondents No.4 and 5 of the use of the property. The learned Trial Court is seized of the matter, and this Court should not exercise its inherent jurisdiction in the present matter. Hence, he prayed that the present petition be dismissed.

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 uncontested 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 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. This position was reiterated 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 petition is to be decided as per the parameters laid down by the Hon’ble Supreme Court.

16. The police registered the FIR for the commission of the offence punishable under Sections 451, 447 and 506 of the IPC. Section 506 of the IPC punishes a person for criminal intimidation, which is defined in Section 503 of the IPC as under: -

### **503. Criminal intimidation**

Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of

anyone in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation- A threat to injure the reputation of any deceased person in whom the person threatened is interested is within this section.

17. Section 503 requires that the threat of injury should have been made with an intent to cause alarm to a person, to do an act, which a person is not legally bound to do or omit to do any act which he is legally entitled to do. It was laid down by this Court in *Inder Pratap Singh Versus State of Himachal Pradesh 2003* (1) *Crimes 345 (HC)* that the complainant should have been alarmed by the threat advanced by the accused to attract section 506 of IPC. It was observed:

“21. Similarly, before an offence of criminal intimidation can be made out, it must be established *prima facie* that the accused persons (like petitioners in the present case) intended to cause an alarm to the complainant party, i. e., Jasbeer Singh. Mere threats, as alleged by him, extended by the petitioners, with a view to deter the complainant from interfering with what the petitioner believed to be his exclusive property, would not constitute an offence of criminal intimidation.”

18. Similar is the judgment of Hon’ble Supreme Court in *Vikram Johar v. State of U.P., (2019) 14 SCC 207: (2019) 4 SCC (Cri)*

795: 2019 SCC OnLine SC 609 wherein it was held at page 209: -

“25. Now, reverting back to Section 506, which is an offence of criminal intimidation, the principles laid down by *Fiona Shrikhande v. State of Maharashtra*, (2013) 14 SCC 44 : (2014) 1 SCC (Cri) 715 have also to be applied when the question of finding out as to whether the ingredients of the offence are made or not. Here, the only allegation is that the appellant abused the complainant. For proving an offence under Section 506 IPC, what are the ingredients that have to be proved by the prosecution? *Ratanlal & Dhirajlal on Law of Crimes*, 27th Edn., with regard to proof of offence, states the following:

“... *The prosecution must prove:*

- (i) *That the accused threatened some person.*
- (ii) *That such threat consisted of some injury to his person, reputation or property; or to the person, reputation or property of someone in whom he was interested;*
- (iii) *That he did so with intent to cause alarm to that person; or to cause that person to do any act which he was not legally bound to do, or omit to do any act which he was legally entitled to do as a means of avoiding the execution of such threat.*” (emphasis supplied)

A plain reading of the allegations in the complaint does not satisfy all the ingredients as noticed above.

19. In the present case, the FIR does not mention that any alarm was caused in the mind of any person or that any person was compelled to do something which he would not have done but for the intimidation. Therefore, the essential requirements of Section 506 of IPC are not satisfied in the present case.

20. Section 441 of the IPC defines criminal trespass as an entry upon the property in possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property. It was laid down by the Hon'ble Supreme Court in *Mathri v. State of Punjab, 1963 SCC OnLine SC 180: AIR 1964 SC 986* that the prosecution has to prove that the aim of the accused was to insult, intimidate or annoy and merely because the entry caused the insult, intimidation, or annoyance is not sufficient. It was observed:

18. We think, with respect, that this statement of law, as also the similar statements in *Laxaman Raghunath case [26 Bombay 558]* and in *Sellamuthu Servaigaran case [ILR 35 Mad 186]*, is not quite accurate. The correct position in law may, in our opinion, be stated thus: In order to establish that the entry on the property was with the intent to annoy, intimidate or insult, it is necessary for the Court to be satisfied that causing such annoyance, intimidation or insult was the aim of the entry; that it is not sufficient for that purpose to show merely that the natural consequence of the entry was likely to be annoyance, intimidation or insult, and that this likely consequence was known to the persons entering; that in deciding whether the aim of the entry was the causing of such annoyance, intimidation or insult, the Court has to consider all the relevant circumstances including the presence of knowledge that its natural consequences would be such annoyance, intimidation or insult and including also the probability of something else than the causing of such intimidation, insult or annoyance, being the dominant intention which prompted the entry.

21. This position was reiterated in *Rajinder v. State of Haryana, (1995) 5 SCC 187: 1995 SCC (Cri) 852*, wherein it was observed at page 198:

“21. It is evident from the above provision that unauthorised entry into or upon property in the possession of another or unlawfully remaining there after lawful entry can answer the definition of criminal trespass if, and only if, such entry or unlawful remaining is with the intent to commit an offence or to intimidate, insult or annoy the person in possession of the property. In other words, unless any of the intentions referred to in Section 441 is proved, no offence of criminal trespass can be said to have been committed. Needless to say, such an intention has to be gathered from the facts and circumstances of a given case...”

22. In the present case, the FIR does not mention that the informant had trespassed into the property of respondents No. 4 and 5 with an intent to commit an offence or to intimidate, insult or annoy any person in possession of the property. The FIR is regarding the dispossession of respondents No. 4 and 5 from the property, and does not satisfy the definition of trespass.

23. It was submitted that the lock was put from inside, which shows that the petitioner had trespassed into the property owned and possessed by respondents No.4 and 5. This submission will not help the respondents. Even if there was an

entry, the intent mentioned in Section 441 is not specified in the FIR and putting locks from inside will not make it a criminal trespass.

24. The record shows that APJ laboratory was a defaulter. The action was taken against it under the SARFAESI Act. Respondent No.4, Manmohan Malik, was directed to hand over the possession in Civil Writ Petition No. 7719 of 2021 vide order dated 31.5.2024. However, the possession was not delivered, and the Court passed an order on 11.6.2024 directing Manmohan Malik and Sangeeta Malik to personally appear before the Court in case of failure to deliver the possession of the 5<sup>th</sup> room. The possession of the 5<sup>th</sup> room was delivered after this order, and this fact was noticed by the Court in its order dated 13.6.2024. Subsequently, Manmohan Malik filed CMP No. 11391 of 2024 stating that the house was built on Khasra No.205/155/63 inadvertently, as it was located adjacent to Khasra No.206/155/63. The electricity connection was in the name of Manmohan Malik. The purchaser (present petitioner) had threatened Manmohan Malik that the latter would not be permitted to use the part of the land/house, the entrance and the area in his possession. This fact was brought to the notice of

the police, but no action was taken. A civil suit was filed before the Court of the learned Senior Civil Judge, Paonta Sahib. The purchaser (present petitioner) and his officials locked the doors and the main entrance gate of the building, which was not part of the land mortgaged to H.P. State Cooperative Bank. An FIR was registered regarding this incident. Hence, a prayer was made to clarify the order dated 31.5.2024 and 13.6.2024 to the extent that the purchaser was only entitled to the possession of the mortgaged property and not the property leased to Manmohan Malik.

25. This record shows that Manmohan Malik had complained about the petitioner's act before this Court, but the Court declined to look into the matter. This is also the subject matter of the civil suit. Thus, the petitioner's acts were the subject matter of the application filed before this Court, the civil suit and the FIR. The police also concluded that, as per the demarcation, some portion was found in possession of Manmohan Malik, existing on Khasra No.206/155/63, with which the petitioner has no concern. Therefore, it is apparent that FIR. is in essence for the enforcement of the rights claimed in the civil suit and the application filed before this Court.

26. It was laid down by the Hon'ble Supreme Court in *Anukul Singh v. State of U.P.*, 2025 SCC OnLine SC 2060, that criminal proceedings cannot be used for enforcing civil rights. It was observed: -

17. This Court has, in a long line of decisions, deprecated the tendency to convert civil disputes into criminal proceedings. In *Indian Oil Corporation v. NEPC India Ltd.* (2006) 6 SCC 736, it was held that criminal law cannot be used as a tool to settle scores in commercial or contractual matters, and that such misuse amounts to abuse of process. The following paragraphs from the decision are apposite:

“9. The principles relevant to our purpose are:

(i) A complaint can be quashed where the allegations made in 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 the case alleged against the accused. For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint is warranted while examining a prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with malafides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts that are absolutely necessary for making out the offence.

(v) A given set of facts may make out: (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking a remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceeding are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.

10. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time-consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in

several family disputes, also leading to an irretrievable breakdown of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged.”

18. Similarly, in *Inder Mohan Goswami v. State of Uttarakhand* (2007) 12 SCC 1: AIR 2008 SC 251, it was emphasised that criminal prosecution must not be permitted as an instrument of harassment or private vendetta. In *Ganga Dhar Kalita v. State of Assam* (2015) 9 SCC 647, this Court again reiterated that criminal complaints in respect of property disputes of a civil nature, filed solely to harass the accused or to exert pressure in civil litigation, constitute an abuse of process.

19. Most recently, in *Shailesh Kumar Singh @ Shailesh R. Singh v. State of Uttar Pradesh* 2025 INSC 869, this Court disapproved the practice of using criminal proceedings as a substitute for civil remedies, observing that money recovery cannot be enforced through criminal prosecution where the dispute is essentially civil. The Court cautioned High Courts not to direct settlements in such matters but to apply the settled principles in Bhajan Lal. The following paragraphs are relevant in this context:

“9. What we have been able to understand is that there is an oral agreement between the parties. The Respondent No. 4 might have parted with some money in accordance with the oral agreement, and it may be that the appellant, herein, owes a particular amount to be paid to the Respondent No. 4. However, the question is whether, *prima facie*, any offence of cheating could be said to have been committed by the appellant.

10. How many times are the High Courts to be reminded that to constitute an offence of cheating, there has to be something more than *prima facie* on record to indicate that the intention of the accused was to cheat the complainant right from the inception. The plain reading of the FIR does not disclose any element of criminality.

11. The entire case is squarely covered by a recent pronouncement of this Court in the case of "*Delhi Race Club (1940) Limited v. State of Uttar Pradesh*", (2024) 10 SCC 690. In the said decision, the entire law as to what constitutes cheating and criminal breach of trust, respectively, has been exhaustively explained. It appears that this very decision was relied upon by the learned counsel appearing for the petitioner before the High Court. However, instead of looking into the matter on its own merits, the High Court thought fit to direct the petitioner to go for mediation and that too by making payment of Rs. 25,00,000/- to the 4<sup>th</sup> respondent as a condition precedent. We fail to understand why the High Court should undertake such an exercise. The High Court may either allow the petition, saying that no offence is disclosed or may reject the petition, saying that no case for quashing is made out. Why should the High Court attempt to help the complainant to recover the amount due and payable by the accused? It is for the Civil Court or Commercial Court, as the case may be, to look into a suit that may be filed for recovery of money or in any other proceedings, be it under the Arbitration Act, 1996 or under the provisions of the IB Code, 2016.

12. Why the High Court was not able to understand that the entire dispute between the parties is of a civil nature.

13. We also enquired with the learned counsel appearing for the Respondent No. 4 whether his

client has filed any civil suit or has initiated any other proceedings for recovery of the money. It appears that no civil suit has been filed for the recovery of money to date. Money cannot be recovered, more particularly, in a civil dispute between the parties by filing a First Information Report and seeking the help of the Police. This amounts to abuse of the process of law.

14. We could have said many things, but we refrain from observing anything further. If the Respondent No. 4 has to recover a particular amount, he may file a civil suit or seek any other appropriate remedy available to him in law. He cannot be permitted to take recourse to criminal proceedings.

15. We are quite disturbed by the manner in which the High Court has passed the impugned order. The High Court first directed the appellant to pay Rs. 25,00,000/- to the Respondent No. 4 and thereafter directed him to appear before the Mediation and Conciliation Centre for the purpose of settlement. That's not what is expected of a High Court to do in a Writ Petition filed under Article 226 of the Constitution or a miscellaneous application filed under Section 482 of the Criminal Procedure Code, 1973, for quashing of FIR or any other criminal proceedings. What is expected of the High Court is to look into the averments and the allegations levelled in the FIR, along with the other material on record, if any. The High Court seems to have forgotten the well-settled principles as enunciated in the decision of this Court in the "*State of Haryana v. Bhajan Lal*", 1992 Supp (1) SCC 335.

27. In the present case, an attempt is being made to convert the civil dispute into a criminal dispute by claiming that the door was locked from inside, which *prima facie* does not

constitute the offence of trespass. Therefore, the continuation of the criminal proceedings is impermissible

28. Hon'ble Supreme Court held in *Kapil Agarwal vs. Sanjay Sharma, (2021) 5 SCC 524: 2021 SCC OnLine SC 154* that criminal proceedings cannot be permitted to become a weapon of harassment. It was observed:

“18.1. As observed and held by this Court in a catena of decisions, inherent jurisdiction under Section 482 CrPC and/or under Article 226 of the Constitution is designed to achieve a salutary purpose that criminal proceedings ought not to be permitted to degenerate into weapons of harassment. When the Court is satisfied that criminal proceedings amount to an abuse of process of law or that it amounts to bringing pressure upon the accused, in the exercise of inherent powers, such proceedings can be quashed.”

29. No other point was urged.

30. In view of the above, the present petition is allowed, and the FIR No. 102/2024, dated 30.6.2024, registered at Police Station Puruwala, District Sirmour, HP, for the commission of offences punishable under Sections 451, 447 and 506 of the Indian Penal Code and the consequential proceedings arising out of it are ordered to be quashed.

31. Petition stands disposed of in the above terms, so also pending applications, if any.

32. Parties are permitted to produce a copy of this judgment, downloaded from the webpage of the High Court of Himachal Pradesh, before the authorities concerned, and the said authorities shall not insist on the production of a certified copy, but if required, may verify passing of the order from the Website of the High Court.

**(Rakesh Kainthla)  
Judge**

**1<sup>st</sup> January, 2026**  
(Chander)