

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

**S.B. Criminal Miscellaneous (Petition) No. 7365/2019
URN: CRLMP / 13689U / 2019**

Vijaypal Arya S/o Late Shri Kumbharam Arya, R/o Takiya Ki Chowki, Kalwar Road, Jhotwara, Jaipur (Raj.).

-----Petitioner

Versus

1. State Of Rajasthan, Through P.P.
2. Sanjay Kishore Agarwal S/o Shri Mangalkishore Agarwal, R/o 2/533, Jawahar Nagar, Jaipur (Raj.).

-----Respondents

Connected With

**S.B. Criminal Miscellaneous (Petition) No. 427/2020
URN: CRLMP / 784U / 2020**

1. Amar Singh S/o Shri Lekhram, R/o Takia Ki Chowki, Kalwar Road, Jhotwara, Jaipur, Raj.
2. Ajay Kumar S/o Shri Vidhyadhar Singh Khatkad, R/o Takia Ki Chowki, Kalwar Road, Jhotwara, Jaipur, Raj.
3. Chandra Prakash Guleria S/o Shri Isharram Choudhary, R/o Plot No.48, Krishna Nagar, Vaishali Nagar, Jaipur, Raj.
4. Gopiram S/o Shri Mangalram Raiger, R/o Takia Ki Chowki, Kalwar Road, Jhotwara, Jaipur, Raj.
5. Harinarayan Meena S/o Shri Nathuram, R/o Takia Ki Chowki, Kalwar Road, Jhotwara, Jaipur, Raj.
6. Hanuman Singh S/o Geegaram, R/o Takia Ki Chowki, Kalwar Road, Jhotwara, Jaipur, Raj.
7. Ranveer Singh S/o Shri Vijay Pal Singh, R/o Takia Ki Chowki, Kalwar Road, Jhotwara, Jaipur, Raj.
8. Rakesh Kumar Singh S/o Shri Hari Singh, R/o Takia Ki Chowki, Kalwar Road, Jhotwara, Jaipur, Raj.
9. Rajendra Singh Punia S/o Shri Sube Singh, R/o Takia Ki Chowki, Kalwar Road, Jhotwara, Jaipur, Raj.
10. Surja Ram Meel S/o Shri Danaram, R/o Plot No.a-133, Valmiki Marg, Hanuman Nagar, Vaishali Nagar, Jaipur, Raj.

11. Sanjeev Arya S/o Shri Radhakrishna Chaudhary, R/o Takia Ki Chowki, Kalwar Road, Jhotwara, Jaipur, Raj.
12. Sumit Sharma S/o Shri Lalaram Sharma, R/o Takia Ki Chowki, Kalwar Road, Jhotwara, Jaipur, Raj.
13. Smt. Kamla Beniwal W/o Late Ramchandra Beniwal, R/o Malviya Nagar, Jaipur, Raj.

-----Petitioners

Versus

1. State Of Rajasthan, Through P.P.
2. Sanjay Kishore Agrawal S/o Shri Mangal Kishore Agrawal, R/o 2/533, Jawahar Nagar, Jaipur, Raj.

-----Respondents

S.B. Criminal Miscellaneous (Petition) No. 2093/2022

URN: CRLMP / 2959U / 2022

Smt. Shanti Devi Wife Of Shri Shiv Prasad Balai, Resident Of Takiya Ki Chowki, Kalwar Road, Jhotwara, Jaipur, (Rajasthan).

-----Petitioner

Versus

1. State Of Rajasthan, Through P.P.
2. Sanjay Kishore Agrawal Son Of Shri Mangal Kishore Agrawal, Resident Of 2/533, Jawahar Nagar, Jaipur (Rajasthan).

-----Respondents

For Petitioner(s)	:	Mr. Vivek Raj Bajwa, Senior Advocate assisted by Mr. Deepak Bishnoi & Mr. Rishabh Bhidasra in CRLMP No.7365/2019 & 427/2020 Mr. Pushpendra Kumar & Mr. Amandeep for Mr. Rajesh Gadwal in CRLMP No.2093/2022
For Respondent(s)	:	Mr. Sudesh Saini, Public Prosecutor Mr. Sunil Kumar Jain with Mr. Sandesh Khandelwal, Ms. Shobha Sharma & Mr. Ajay Sharma for complainant

HON'BLE MR. JUSTICE GANESH RAM MEENA**Order**

Arguments concluded on	:::	May 20, 2026
Reserved on	:::	May 20, 2026
Pronounced on	:::	July 16, 2026

1. These criminal miscellaneous petitions have been filed by the accused-petitioners under Section 482 of the Cr.P.C. against the impugned order dated 15.10.2019 passed by the learned Additional District Judge No. 4, Jaipur Metropolitan, Jaipur (for short, 'the learned Revisional Court') whereby the order of taking cognizance dated 15.07.2019 passed by the Court of learned Additional Chief Judicial Magistrate No. 7, Jaipur Metropolitan, Jaipur (for short, 'the learned trial Court') was upheld.

2. Brief facts of the case are that the complainant/non-petitioner No. 2 filed a complaint before the learned Metropolitan Magistrate No. 9, Jaipur Metropolitan, Jaipur on 16.08.2012 against the accused petitioners for offences punishable under Sections 420, 467, 468, 471, 406 and 120-B IPC mentioning therein that in 1951, the State Government of Rajasthan formulated a scheme to lease out the vacant unused agricultural lands for 20 years and the said scheme was amended in the year 1952 to provide that the *khatedari* rights would be granted only if the land is properly utilized for the first five years, thus, the period was extended to 25 years, after which, the land was to revert to the Government.

As per the contents of the complaint, in accordance with the said scheme, on 05.01.1953, a land measuring $218\frac{3}{4}$ acres was allotted on lease for agricultural purposes to the Cooperative Society of Rajendra Singh and others, namely, Kisan Samuhik Krishi Sahakari Samiti Limited Jhotwara Jaipur which came to be registered on 13.02.1953, however, later on, the members of the society started engaging in work other than the agriculture and subsequently obtained *khatedari* rights in the aforesaid land by submitting wrong facts. It has been alleged that after expiry of the 25-year period in 1978, the Revenue Authorities did not re-record the land in the name of the State Government and regarding this, JDA also wrote a letter for acquisition of 17 *bigha* 10 *biswa* and 204 *bigha* 3 *biswa* of the land.

The complainant has averred that the petitioner offered 15% developed land in lieu of acquisition compensation based on false facts and the Additional Registrar also admitted in his report that the petitioners intended to grab and sell the land fraudulently. He has further alleged that none of the accused petitioners are the members of the original society and they fraudulently obtained land measuring 1516 square meters valuing Rs. 400 crores and fraudulently presented the documents showing 8 crores loan taken by the society. The complainant has averred that no action is being taken against the petitioners as all of them are influential people.

3. Subsequently, the said complaint was sent to the Police Station Kardhani, Jaipur (West), after which, a final report was filed by the Police on 15.05.2014. Pursuant to this, the learned trial Court took cognizance against the petitioners and other

persons vide its impugned order dated 15.07.2019. Being aggrieved of the said order of cognizance, the petitioners have filed a revision petition which came to be dismissed by the learned Revisional Court vide its order dated 15.10.2019.

4. Learned counsel for the petitioners in S.B. Criminal Miscellaneous Petition No. 7365/2019 has submitted that neither the lease deed nor any other material was made available on record which implies that ingredients of Sections 467, 468 and 471 IPC were not proved and the learned trial Court did not even call for the record.

5. Learned counsel for the petitioners in S.B. Criminal Miscellaneous Petition No. 427/2020 has submitted that the validity of the *khatedari* rights are yet to be determined as the alleged resolutions of the cooperative society have been stayed by the Registrar, appeals and revision also remain pending and four References Nos. 104/2014, 105/2014, 106/2014 and 107/2014 which were filed by the State Government before the learned Board of Revenue after an inordinate delay of 60 days also remain pending.

He further submitted that the petitioners acquired *khatedari* rights in the year 1958 as per the amended provisions of law (Subsequent Revenue Department Notification No. F.3 (132) Rev. II/51 of March 1952) and the State Authorities have themselves admitted the ownership of the society in various litigations. He also submitted that the present case has been lodged in order to avoid just compensation after acquisition of the land in dispute and further, no government official has been made an accused in the present case.

6. Learned counsel for the petitioner in S.B. Criminal Miscellaneous Petition No. 2093/2022 has submitted that the learned trial Court did not consider the two complaints filed by the petitioners regarding damage of property.

7. Per contra, learned Public Prosecutor as well as counsel for the complainant opposed the prayer made by the learned counsel for the petitioners.

8. It is also submitted that the learned Magistrate has rightly taken cognizance against the petitioners after taking into consideration the material available on record. The learned Revisional Court has also upheld the order of cognizance on the basis of the evidence available against the petitioners as regards the cheating and forgery.

9. The brief facts relevant for consideration and disposal of the issue raised in the present petition are that a Notification dated 15.03.1951 was issued regarding allotment of the land for agricultural purposes for a period of 20 years. Subsequently, an amended Notification dated 9/25.03.1952 was issued, wherein, Clause 2 provided that the said land would initially be allotted on lease for the first five years. After expiry of the period of lease, *Khatedari* rights shall be granted subject to the provisions of Rule 6 if the Government is satisfied that the land has been fully and properly exploited.

Clause 6 of the said Notification provides that if the lessee satisfies the authority who has granted the lease that he has failed to exploit or improve some part of the land due to unforeseen causes beyond his control, the said authority may,

looking to the expenditure and labour of the lessee, extend the period of lease upto a maximum period of three years.

10. The Revenue Department, Government of Rajasthan vide its order dated 05.01.1953 issued an allotment order under the provisions of Notification dated 15.03.1952 making allotment of certain land which is subject matter of this case to one Rajendra Singh and fifteen others on behalf of the Better Farming Co-operative Society and also to certain landless tenants.

11. The Kisan Samuhik Krishi Sahakari Samiti Limited, which is a registered society under the provisions of the Co-operative Societies Act, 1943 was entered as *Khatedar* of the land in question of Samwat Year 2015 to 2034. The Government of Rajasthan issued a Notification under Section 4 of the Land Acquisition Act, 1984 for area of village Gokulpura and Jothwara for Prithviraj Nagar Yojana. After following the process under the Land Acquisition Act, two awards were passed on 20/31.07.1991 and 16/31.07.1991. The Registrar Co-operative Societies issued an order dated 02.07.2009 for winding up / liquidation of the Kisan Samuhik Krishi Sahakari Samiti Limited. However, the stay order dated 02.07.2009 was set aside by the Ministry of Co-operative Societies vide its order dated 07.09.2010.

12. On 16.08.2012, the complainant Sanjay Kishore Agarwal filed the complaint before the Metropolitan Magistrate No. 9, Jaipur Metropolitan against 17 members of the society arraying them an accused for the offence punishable under Section 420, 467, 468, 471, 406, 120B IPC alleging that the land was given on lease vide order dated 05.01.1953 for a period of 20 years to the Sahakari Samiti and further alleged that office bearers of the

society, by submitting incorrect facts, have obtained the *Khatedari* rights in the year 1958. Learned Magistrate vide order dated 17.10.2013 sent the complaint to the Police for inquiry under Section 202 Cr.P.C. and the Police after making inquiry submitted its report with a conclusion that *prima facie* offences are made out against the petitioners.

13. A writ petition was filed challenging the notification dated 06.01.1988 issued under Section 4 of the Land Acquisition Act and so also the notification dated 28.07.1989 issued under Section 6 of the Land Acquisition Act and so also two awards and the said writ petition is still pending before the Hon'ble High Court for adjudication. The stay application for interim relief is said to have been dismissed vide order dated 05.06.2014 and against the rejection of the interim relief, a D.B. Special Appeal Writ No. 918/2014 was preferred by the society which came to be disposed by the Hon'ble Division Bench vide its order dated 12.06.2014. Against the order of Hon'ble Division Bench, SLP (C.) Nos. 18040-18041/2014) was filed before the Hon'ble Apex Court.

The Hon'ble Supreme Court vide its order dated 20.08.2014 directed the respondent-State and Jaipur Development Authority to reserve 25% of the developed area taken over from the appellant-Samiti pending for final disposal of the writ petition before the High Court.

14. On 05.08.2014, Tehsildar filed an application under Section 82 of the Land Revenue Act, 1956 before the District Collector for reference and the District Collector, Jaipur vide its order dated 13.04.2015 ordered for reference under Section 82 of the of the Land Revenue Act, 1956. Against the order dated

13.04.2015 passed by the District Collector, Jaipur, S.B. Civil Writ Petition Nos. 5910/2016, 5911/2016, 6121/2016 and 6658/2016 have been filed which are still sub-judice before the High Court.

15. After the order of learned Magistrate i.e. 15.07.2019 and the order of learned Additional District Judge dated 15.10.2019 which are under challenge, the Board of Revenue vide its order dated 26.06.2023 allowed the references in favour of the State. Kisan Samuhik Krishi Sahakari Samiti Limited filed an appeal under Section 10 read with Section 9 of the Land Revenue Act, 1956 before the Board of Revenue, and the Board of Revenue vide its order dated on 30.07.2024 passed an interim order in favour of the Kisan Samuhik Krishi Sahakari Samiti Limited.

16. From the aforesaid facts, it is very much clear that the petitioners have been granted *Khatedari* rights. The issue regarding payment of compensation of the acquired land which is said to be in *Khatedari* of the petitioners is still sub judice before the High Court and the Hon'ble Apex Court has already ordered to keep reserve 25% of the developed area and the issue regarding references made by the Tehsildar and thereafter, orders passed by the District Collector are also still sub-judice before the Board of Revenue and so also before the High Court by way of writ petitions. The conclusion of the pendency of the litigations qua the land-in-question and acquiring the *Khatedari* rights and acquisition of the land thereafter are still sub-judice before the various legal forums including the High Court. Until and unless these issues, pending before the various legal forums including High Court and the Board of Revenue are not concluded to the extent of acquiring the *Khatedari* rights in favour of the petitioners and the acquisition

of land and the fact that who would be entitled for the compensation and to what extent, it cannot be said that the petitioners have played forgery or they have misled in seeking the *Khatedari* rights. It is a fact on record that the petitioners have been allowed *Khatedari* rights in the year 1958. In view of the provisions of Section 15(2) of the Rajasthan Tenancy Act, 1955 (for short, "the Act of 1955) which speaks that the person who is in possession of the agriculture land on the date of the commencement of the Act of 1955, the said person in possession would be entitled for the *Khatedari* rights.

17. As per the facts on record, the Registrar Co-operative Society Rajasthan Jaipur vide its order dated 02.07.2009, ordered for winding up of the society while considering various allegations. However, the Hon'ble Co-operative Minister, Government of Rajasthan vide order dated 09.09.2010 set aside the order of winding up with certain observations.

18. In view of the above, the Court finds that the issue of acquiring *Khatedari* rights and thereafter acquisition of the land in question and the issue that who would be entitled for receiving the compensation for the acquired land are sub-judice before the High Court. The reference initiated qua the land-in-question by the Government is also sub-judice before the Board of Revenue. Meaning thereby, the issue regarding acquiring *Khatedari* rights is sub judice before the various legal forums. Because the references which have been submitted by the *Tehsildar* and ordered by the District Collector, it is to be decided whether the *Khatedari* rights acquired by the petitioners are just and proper ? In case, it is decided that they have obtained the *Khatedari* rights as per the

law, then it cannot be said that they have obtained *Khatedari* rights by cheating and forgery.

19. The *Khatedari* rights said to have been given to the Kisan Samuhik Krishi Sahakari Samiti Limited in the year 1958. As per the provisions of Rajasthan Co-operative Societies Act, 1953 (for short, " the Act of 1953) the offences and penalties have been provided in the Act. It is provided in the Act of 1953 that if a society furnishes any information which has been acquired for the purposes of this Act by the Registrar or other persons duly authorized by him in writing in this behalf, which is found to be false, then such person can be penalized under the provisions of Section 71 of the Act of 1953 and the similar provisions in regard to the penalty are also there under the Rajasthan Co-operative Societies Act, 1965. Sections 70, 71 and 74 of the Act of 1953 are quoted as under:-

"70. Default by a society, officer, member or any employee. -It shall be an offence under this Act if-

(a) a society with a working capital of Rs. 10,000 or more or an officer, member or employee thereof fails with-out any reasonable excuse to give any notice, send any re-turn or document, do or allow to be done anything which the society, officer, member or employee is by this Act required to give, send, do or allow to be done;

b) a society or an officer, member or employee thereof wilfully neglects or refuses to do any act or to furnish any information required for the purposes of this Act by the Registrar or other person duly authorised by him in writing in this behalf; or

(c) a society or an officer, member or employee thereof wilfully makes a false return or furnishes false information; or

(d) any person wilfully or without any reasonable excuse disobeys any summons, requisition or lawfully written order issued under the provisions of this Act or does not furnish any information lawfully required from him by a person authorised to do so under the provisions of this Act.

71. Penalty for offences not otherwise provided for.

Every society, officer or past officer or member or past member of a society or other person guilty of an offence under this Act for which no penalty is expressly provided therein shall be liable to a fine not exceeding Rs. 50.

74. Cognizance of offences.

(1) No Court inferior to that of a Magistrate of the first class shall try any offence under this Act.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, every offence under this Act shall, for the purpose of the said Code, be deemed to be non-cognizable.

(3) No prosecution under this Act shall be lodged without the previous sanction of the Registrar which shall not be given except after hearing the party concerned."

20. The aforesaid provisions clearly speak that in cases where the society registered under the Rajasthan Co-operative Societies Act, 1953 wilfully submitted the false information, it is liable to be penalized under the provisions of the Rajasthan Co-operative Societies Act, 1953. When there is a special law for penalizing someone for doing an act, in that situation, no

proceedings can be initiated for offences punishable under Indian Penal Code, 1860.

21. The Hon'ble Supreme Court in case of ***Paramjeet Batra Vs. State of Uttarakhand And Ors. ((2013) 11 SCC 673)*** has held as under:

"12. While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process of the court.

13. As we have already noted, here the dispute is essentially about the profit of the hotel business and its ownership. The pending civil suit will take care of all those issues. The allegation that forged and fabricated documents are used by the appellant can also be dealt with in the said suit. Respondent 2's attempt to file similar complaint against the appellant having failed, he has filed the present complaint. The appellant has been acquitted in another case filed by Respondent 2 against him alleging offence under Section 406 IPC. Possession of the shop in question has also been handed over by the appellant to Respondent 2. In such a situation, in our opinion, continuation of the pending criminal proceedings would be abuse of the process of law. The High Court was wrong in holding otherwise.

14. In the circumstances, the impugned order dated 29-9-2011 [Paramjeet Batra v. State of Uttaranchal, Criminal Miscellaneous Application No. 287 of 2005, order dated 29-9-2011 (Utt)] passed by the

Uttarakhand High Court is set aside. The entire proceedings of Criminal Case No. 723 of 2005 (Charge-sheet No. 32 of 2005), and the order of cognizance dated 22-3-2005 passed thereon by the Judicial Magistrate, Khatima, District Udham Singh Nagar against the appellant, Respondents 3 and 4 and against accused Rajpal for the offences punishable under Sections 406, 420, 467, 468, 471, 447, 448 read with Section 34 IPC are quashed and set aside. This order will however have no effect on the pending civil suit between the parties. Needless to say that the court, seized of the said suit, shall decide it independently and in accordance with law."

The Hon'ble Supreme Court has also held in the case of ***Sardar Ali Khan Vs. State of Uttar Pradesh through Principal ((2020) 12 SCC 51)*** as under:

"8. At the outset it is to be noted that the appellant has purchased the plot in question by sale deed dated 29-12-1993 which was registered on 5-1-1994. The father of the 2nd respondent died on 3-12-1997. Though the registered sale deed is of 1994, the 2nd respondent filed suit which is pending in OS No. 160 of 2008, only in the year 2008 seeking cancellation of sale deed alleging that the aforesaid sale deed was got executed by the appellant and his brother, by making use of the acquaintance with his father, in a false and fraudulent manner. There is no allegation of impersonation or forgery of signatures in the suit filed by the 2nd respondent. It is the case of the appellant that even the 2nd respondent is a signatory to the sale deed as a witness. Though the suit was filed in the year 2008, the 2nd respondent has chosen to file the criminal complaint only in the year 2012 alleging forgery and impersonation. With regard to the validity of the sale deed, matter is seized up before the competent civil court and it is for the civil court to decide whether any fraud is played or not by the appellant, on the late father of the 2nd respondent for obtaining the sale deed. When the very same issue is seized up before the civil court, the 2nd respondent cannot pursue criminal proceedings against the appellant for alleged offence under Sections 418, 419, 420, 467, 468 and 471 IPC. Although, it is contended by the

learned counsel for the 2nd respondent that complaint filed is not barred by limitation but at the same time it appears, there is no reason for lodging private complaint in the year 2012. The sale deed on which basis the title and possession is claimed by the appellant was registered on 5-1-1994, suit itself is filed nearly after 14 years. Even after filing of the suit on 24-8-2008 there is further about 4 years' delay in filing the criminal complaint against the appellant herein. Allowing the proceedings to go on against the appellant who is stated to be about 87 years, in the above set of facts, is nothing but abuse of the process.

9. It is to be noted that there is no allegation of impersonation and forgery of the signatures in the suit filed by the 2nd respondent. In any event, when the suit filed by the 2nd respondent for cancellation of sale deed is pending consideration before the competent court of law, the 2nd respondent cannot pursue his complaint in criminal proceedings by improving his case. Having regard to serious factual disputes which are of civil nature, for which civil suits are pending, allowing the 2nd respondent to pursue his complaint in criminal proceedings is nothing but abuse of the process of law. For the aforesaid reasons, we are of the considered view that the criminal proceedings are fit to be quashed by allowing this appeal."

In another case of **Rajeshbhai Muljibhai Patel and Ors. Etc. Vs. State of Gujarat And Anr. Etc. (SLP (Crl.) Nos. 142-143 of 2019)**, decided on 10.02.2020, the Hon'ble Apex Court observed as under:

"18. Be that as it may, in the Summary Suit No.105/2015, leave to defend was granted to respondent No.2-Mahendrakumar on 19.04.2016. On the application filed by appellant No.3 in the said Summary Suit No.105/2015, four receipts filed in the suit were sent to the handwriting expert. The handwriting expert has opined that signatures in all the four receipts did not tally with the sample signatures which were of respondent No.2-Mahendrakumar. It was only thereafter, complaint was filed by Mahendrakumar, based on which, FIR

No.I-194/2016 was registered on 28.12.2016 against the appellants for the offences punishable under Sections 406, 420, 465, 467, 468, 471 and 114 IPC. As rightly contended by the learned counsel for the appellants, in the Summary Suit No.105/2015, issue No.5 has been framed by the Court "whether the defendant proved that the plaintiff has fabricated the forged signature illegally and created forged receipts". When the issue as to the genuineness of the receipts is pending consideration in the civil suit, in our view, the FIR ought not to have been allowed to continue as it would prejudice the interest of the parties and the stand taken by them in the civil suit. "

22. Learned counsel appearing for the complainant-respondent has referred the judgment passed by the Hon'ble Supreme Court in case of **Kathyayini Vs. Sidharth P.S. Reddy & Ors. (2025 LiveLaw (SC) 712)** which is as under:

"14. The High Court noted that the statement of the Sub-Registrar makes it certain that the thumb impression found on the partition deed dated 24.03.2005 was the thumb impression of Yellappa Reddy. Therefore, an offence as alleged either under Sections 468 or 471 IPC is not made out. Further, the partition deed referred above was drawn up on 24.03.2005 and the respondents, in an effort to get their names entered in the revenue records, have brought up a family tree dated 18.01.2011 in line with the partition deed dated 24.03.2005. The High Court noted that, no doubt when respondents had obtained the family tree, they were bound to disclose the names of daughters of late Yellappa Reddy. But since the attempt by the respondents was to get their names entered in the revenue records based on the partition deed dated 24.03.2005, it cannot be held that the respondents had committed an offence under Section 420 IPC. It may be that they had misrepresented about the family of Yellappa Reddy but that in itself was not an offence punishable under Section 420 IPC. The High Court thus concluded that, considering the suit for partition is already pending where the compensation determined by the Bengaluru Metro Rail Corporation Limited, is secured,

it is appropriate that criminal proceedings initiated against the respondents is put to an end.

17. It is clear from the facts that a prima facie case for criminal conspiracy and cheating exists against respondent Nos. 1 and 2. It appears that they, along with their uncles Guruva Reddy and Umedha Reddy, have attempted to defraud their aunts by creating a forged family tree and partition deed with a motive to gain all the monetary award for land in question bypassing the appellant and her sisters. They succeeded in their plan until Sudhanva Reddy revealed it to the authorities by a letter. The High Court has erroneously relied upon the statement of Sub-Registrar who stated that partition deed dated 24.03.2005 was presented for registration on 26.03.2005 and due to health reasons *concerning K.G.Yellappa Reddy, his thumb impressions were secured at his house in presence of the Sub-Registrar. However, we must note this statement of the Sub-Registrar has not been put to cross examination. It would be unwise to rely on unverified testimony of a Sub-Registrar to ascertain the genuineness of Partition deed. The High Court erred in heavily relying on his statement to conclude that the Partition deed was genuine and thus no offence is made out against the respondents under Sections 463 and 464 IPC."*

23. Having considered the aforesaid judgments, this Court is of the view that if criminal colour is given to an issue of civil nature then such proceedings deserve to be quashed and set aside by exercising inherent jurisdiction vested to the High Court under Section 528 B.N.S.S. (Old 482 Cr.P.C.). From the facts of the case, the Court can safely held that the dispute is regarding the grant of *Khatedari* rights to the petitioners and the litigations at various legal forums are still sub judice. The *Khatedari* rights which were granted have not yet been set aside and until someone continues with the *Khatedari* rights, he would be entitled for all the benefits accruing from acquiring such *Khatedari* rights. The learned Courts below have ignored all the material facts regarding pendency of

the litigations qua the land-in-question for which the allegations have been made against the petitioners for committing forgery for seeking *Khatedari* rights. The Courts below have also ignored the material fact that when there is a specific law to punish someone for committing an act as like in the present case the alleagtions of submitting a false information and the society is liable to be penalized under the provisions of Rajasthan Co-operative Societies Act, 1953 then in that situation, one cannot be prosecuted for offences punishable under the Indian Penal Code, 1860.

24. In view of the discussions made above, the Court feels that it is a fit case to exercise inherent jurisdiction. Accordingly, the present criminal miscellaneous petitions are allowed.

25. The impugned order dated 15.07.2019 passed by the Court of learned Additional Chief Judicial Magistrate No. 7, Jaipur Metropolitan, Jaipur and the order dated 15.10.2019 passed by the learned Additional District Judge No. 4, Jaipur Metropolitan, Jaipur, are hereby, quashed and set aside.

26. In view of the order passed in the main petitions, stay application as well as pending application, if any, also stands disposed of.

(GANESH RAM MEENA),J