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MCRC-39618-2026

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE GAJENDRA SINGH

MISC. CRIMINAL CASE No. 39618 of 2026*HIMMAT SINGH AND OTHERS**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

*Shri Aditya Verma, counsel for the petitioners.**Shri Romil Verma, counsel for the State.*
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Heard On:19.08.2026.

Delivered On:11.09.2026

ORDER

This petition has been filed on behalf of the petitioners under section 528 of BNSS, 2023 for quashment of FIR bearing crime No.242/2026 dated 06.08.2026 registered at Police Station- Dharampuri, District Dhar (M.P.) for the offences punishable under sections 61(2), 336(3), 338 and 340(2) of the Bharatiya Nyaya Sanhita, 2023.

2. Facts in brief are that the petitioner Nos.1 and 2 and respondents no.2 and 3 are real brother and sisters. Respondent Nos.2 and 3/Sisters filed a civil suit claiming declaration of title regarding the agriculture land situated at Village Lunhera Khurd and Village Pipalnakgarhi, Tehsil Dharampuri, District Dhar as mentioned in para no.1 of Annexure P/1. The suit was registered as RCS No.A-34/2022 before 2nd Civil Judge, Senior Division, Dharampuri, District Dhar. Petitioner No.1 and 2 (defendants Nos.1 and 2) alongwith wife and children of Petitioner no.1 claimed that their father



Shersingh has executed a will dated 19.02.2019 (Ex.D/154) in favour of petitioner no.2 Narendra Singh in presence of Petitioner No.3 Shivraj Singh and Petitioner No.4 Dharmendra Singh vide judgment dated 28.07.2026 in RCS No.A-34/2022 by 2nd Civil Judge, Senior Division, Dharampuri, District Dhar recorded the finding that after filing the suit the will Ex.D/154 was forged. Himmatsingh (Petitioner No.1), giving the land to Petitioner No.2/Narendra Singh with the help of their relatives as attesting witnesses (petitioner nos.3 and 4) and ordered to lodge an FIR against the petitioners herein with direction that if any other persons are found involved they will also be made accused. Accordingly, Police Station, Dharampuri, District Dhar registered Crime No.242/2026 under Section 61(2), 336(3), 338 and 340(2) of BNS, 2023.

3. The present petition has been filed on the ground that the Civil Suit is decided on the standard of preponderance of probabilities and it is settled law that findings rendered in a civil proceeding more so, findings that are, by the trial Court's own admission in Paragraph 38 of the impugned judgment, not final or -conclusive on the question of coercion/fraud qua one of the very persons named as an accused cannot form the sole and exclusive foundation for a criminal prosecution, which must independently satisfy the higher standard of proof beyond reasonable doubt.

4. It is further submitted that the Will dated 19.12.2019 was set up and proved as an exhibit (Ex. D- 154) during the pendency of Civil Suit No. RCS-A-34/2022 itself, and the finding of the learned trial Court is that the said document was fabricated after institution of the suit and produced/relied



upon in the course of the very same judicial proceeding. In such circumstances, the offence alleged squarely falls within the ambit of Section 215(1)(b) read with Section 379 of the BNSS, 2023), which bars any Court from taking cognizance of an offence described in Sections 340, 338, 336(3) of the BNS relating to a document produced or given in evidence in a proceeding in that Court, except on a complaint in writing made by that Court or a Court to which it is subordinate. The correct and exclusive remedy available to the trial Court, if it was of the opinion that an offence had been committed: in relation to a document produced/given in evidence before it, was to follow the mandatory procedure of a written complaint under Section 379 of the BNSS, 2023 which alone can form the foundation of cognizance being taken and not a direction for registration of a police FIR under Section 173 of BNSS, 2023.

5. It is further submitted that where a preliminary inquiry under Section 379 BNSS is dispensed with the safeguard of an opportunity of being heard before a complaint is lodged, and the requirement that the complaint itself (not a mere police FIR) be the foundation of cognizance, are mandatory in nature. No such procedure having been followed by the learned trial Court, the direction contained in Paragraphs 50 and 51 of the impugned judgment, and the consequent registration of F.I.R. No. 0242/2026, are without jurisdiction and *non est* in law. The paragraphs 50 and 51 of the judgment dated 28.07.2026 were rendered without the Petitioners ever being called upon, charged, or given specific notice or opportunity to meet an accusation of criminal conspiracy and forgery as such, no such issue was



framed for trial and no such relief was even claimed by the plaintiffs in the civil suit. The recording of adverse findings amounting, in substance, to a finding of criminal guilt, without affording the Petitioners the procedural safeguards attendant upon a criminal trial, is in violation of the principles of natural justice and fair procedure guaranteed under Article 21 of the Constitution of India and cannot be permitted to found a criminal prosecution. It is submitted that the dispute between the parties is, in its essential nature, a family dispute over succession to and partition of agricultural land inherited from a common ancestor, which was the very subject matter of the civil suit and stands finally adjudicated by the civil Court's decree. Permitting a parallel criminal prosecution to proceed on identical facts, after the civil rights of the parties already stand crystallised by the decree, would amount to giving a criminal colour to what is essentially a civil dispute. No independent material, verification, or application of mind by any police officer preceded the registration of the FIR. It is also submitted that continuation of the investigation and any consequent criminal proceedings pursuant to the impugned F.I.R. would result in grave, irreparable prejudice, harassment and abuse of process *qua* the Petitioners, particularly Petitioner No. 3 and Petitioner No. 4, who are named as accused in their capacity as mere attesting witnesses to a document, without any allegation of their having derived any benefit whatsoever therefrom.

6. In support of contention counsel for the petitioner has placed reliance on *Sachida Nand Singh vs. State of Bihar* (1998) 2 SCC 493; *Iqbal Singh. Marwah vs. Meenakshi Marwah*, (2005) 4 SCC 370; *Atnarsang*



Nathaji vs. Hardik Harshadbhai Patel, (2017) SCC 113; and Perumal vs. Janaki, (2014) 5 SCC 377.

7. Heard.

8. Per contra, counsel for the State has opposed the application by submitting that the petitioners have jointly committed fraud and forgery and therefore, the learned trial court has rightly directed to lodge FIR against the petitioner. Hence, prayer for dismissal of the petition.

9. Perused the record as well as order dated 28.07.2026.

10. Firstly, it needs to be noted as to whether in a case of forgery, it is necessary that the proceedings should be initiated under Section 340 of Cr.P.C., 1973/ under Section 379 of BNSS, 2023 by the Court or whether the police should register a case. This issue was resolved by Apex Court in the case of **Sachida Nand Singh and another Vs. State of Bihar and Another** reported in 1998 SCC (Cri) 660 and in para nos.10, 11 and 12 the observations are as follow:-

10. The sub-section puts the condition that before the Court makes a complaint of "any offence referred to in clause (b) of Section 195(1)" the Court has to follow the procedure **laid down in** Section 340. In other words, no complaint can be made by a court regarding any offence falling within the ambit of Section 195(1)(b) of the Code without first adopting those procedural requirements. It has to be noted that Section 340 falls within Chapter XXVI of the Code which contains a fasciculus of "Provisions as to offences affecting the administration of justice" as the title of the Chapter appellates. So the offences envisaged in Section 195(1)(b) of the Code must involve acts which would have affected the administration of justice.

11. The scope of the preliminary enquiry envisaged in Section 340(1) of the Code is to ascertain whether any offence affecting administration of justice has been committed in respect of a document produced in Court or given in evidence in a proceeding in that Court. In other words, the offence should



have been committed during the time when the document was in custodia legis.

12. It would be a strained thinking that any offence involving forgery of a document if committed far outside the precincts of the Court and long before its production in the Court, could also be treated as one affecting administration of justice merely because that document later reached the Court records."

11. In this case, the forgery was committed outside of the Court. Accordingly, it was not required to conduct preliminary enquiry as per Section 340 (1) of Cr.P.C., 1973/corresponding section 379 of BNSS, 2023 and there can be no impediment for the police to register the case.

12. Now, come to the availability of powers of trial Court regarding power to direct registration of FIR. Of course, it is true that there is no express provision in the Civil Procedure Code specifically empowering a Civil Court to issue a direction either to a party or to a witness to make a complaint to the police. But at the same time, it needs to be noted that there is no prohibition, either express or implied, thereby prohibiting a Civil Court from issuing any direction to a party or a witness to forward a complaint to the police when a serious offence of forgery is alleged.

13. Under such circumstances, the power of Civil Court could be found in [Section 151](#) of the Code of Civil Procedure, 1908. Regarding the scope of power of Civil Court under [Section 151](#) of the C.P.C., I am of the view that I need not delve more since a Constitution Bench of the Hon'ble Supreme Court in **Manohar Lal Chopra Vs. Rai Bahadur Rao Raja Seth Hiralal** reported in AIR 1962 SC 527, has held that the inherent jurisdiction of the Court to make order *ex debito justitiae* is undoubtedly affirmed by [Section 151](#) of the Code, but



that jurisdiction cannot be exercised so as to nullify the provisions of the Code. When the Code itself recognizes the existence of the inherent power of the Court, there is no question of implying any powers outside the limits of the Code. Thus, there is no prohibition for Civil Court to exercise its inherent jurisdiction for direction to forward a complaint.

14. Above all, forgery is a fraud and so the power of the Court, to unearth the fraud and to bring to book the culprits shall find no barriers. If the inherent powers by civil Court under [Section 151](#) could not be exercised to such a situation, the phrase "ends of justice" as enumerated in [Section 151](#) will not serve its purpose.

15. In this regard, I may also state that, in general, whenever a criminal case is registered by the police alleging offence of forgery, the accused rushes to this Court under [Section 482](#) of the Code of Criminal Procedure, 1973/528 of BNSS, 2023 seeking to quash the F.I.R. alleging that the issue has not attained finality as they have challenged it before appellate Court. Many a times, it happens, the High Court holds that the dispute is civil in nature and quashes the F.I.R. Thus comes to an end the criminal case. Ultimately the offender thus, escapes, from the clutches of law and goes scot-free.

15. In my view, this is because of the reluctance of the Civil Courts to issue a direction to the police to register a case of forgery or in appropriate cases to initiate proceedings under [Section 340](#) of the Code of Criminal Procedure, 1973/ 379 of BNSS, 2023. Therefore, it has become necessary for this Court to clarify that in appropriate cases, the Civil Court has got power to issue a direction to a party or to a witness to forward a complaint to the



police. This measure alone shall send an appropriate message to the intending wrong doers so that the fraud and forgery could be curtailed.

16. Accordingly, in view of the aforesaid, there is no scope for quashment of the FIR in this case. Accordingly, the petition is **dismissed**.

(GAJENDRA SINGH)
JUDGE

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