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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\# **CNR No. DLHC010492232026**

\+ CRL.M.C. 7685/2026 & CRL.M.A. 32044/2026

MOHD WASEEM .....Petitioner

Through: Mr. Suhail Khan, Mr. Farid Ahmed Nizami, Ms. Vratika Mittal, Mr. Mariam Nizami, Mr. Sankalp Malik, Advocates.

versus

SAGHIRA KHATOON AND ANR. .....Respondents

Through: Mr. Rajiv Kumar, Advocate.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 12.10.2026

1. The Petitioner invokes Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, read with Article 227 of the Constitution, to challenge the order dated 21st August, 2026, whereby the Principal District and Sessions Judge dismissed Criminal Revision No. 550/2024, affirming the Magistrate's order dated 27th April, 2024 declining to direct registration of an FIR under Section 156(3) Cr.P.C.

2. The dispute arises from a property transaction of June 2014. According to the Petitioner, Respondent No. 1 represented herself to be the owner of three bighas of land at Village Madanpur Khadar and executed an Agreement to Sell, GPA and other documents in his favour for a consideration of ₹20 lakhs. Possession was also stated to have been

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delivered. Subsequently, the Petitioner discovered that the registered Sale Deed of 1989 stood jointly in the names of Respondent No. 1 and Sultana Akhtar, and that the undivided portion of the said land had been transferred by Ms. Sultana Akhtar in favour of Mr. Moin Faiz. Following discussions between the parties, Sultana Akhtar and Moin Ejaz executed separate documents in February 2015, while Respondent No. 1 allegedly agreed to refund the excess consideration of ₹10 lakhs with interest at 18% per annum. The amount was not repaid despite repeated assurances.

3. The Petitioner contends that both Courts have wrongly treated the matter as a simple dispute concerning recovery of money. His case is that the Respondents deliberately concealed the existence of other co-owners and induced him to pay the entire consideration on a false representation of ownership. It is urged that the subsequent promise to refund the excess amount cannot be viewed independently of the original deception. The Petitioner also relies upon the alleged threats made and submits that verification of the original title records, the representations made and the circumstances surrounding the transaction require police investigation. The availability of a civil remedy, it is argued, cannot justify refusal to investigate allegations of cheating.

4. The availability of a civil remedy does not preclude criminal proceedings where the allegations disclose an offence. The question here, however, is narrower: whether those allegations warranted a direction for police investigation under Section 156(3) Cr.P.C. The provision confers a judicial discretion, to be exercised upon consideration of the allegations, the material available and the need for investigation. In *Ramdev Food Products*

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(P) Ltd. v. State of Gujarat[1], and *Kailash Vijayvargiya v. Rajlakshmi Chaudhuri*[2], the Supreme Court has recognised that the Magistrate may, instead of directing investigation at the pre-cognisance stage, proceed with the complaint under Sections 200 and 202 Cr.P.C., where the circumstances so warrant. The choice must be informed by the requirements of the particular case and cannot be made mechanically.

5. Examining the complaint in that light, the Petitioner's grievance cannot be reduced merely to the non-payment of ₹10 lakhs. There is a specific allegation that Respondent No. 1 represented herself as having rights over the entire property, although the registered Sale Deed disclosed joint ownership. Nevertheless, Respondent No. 1 was herself a recorded co-owner and the Petitioner acknowledges that possession was delivered pursuant to the transaction. When the interests of the other claimants came to light, the parties entered into a further arrangement, resulting in the execution of documents by Sultana Akhtar and Moin Ejaz in February 2015 and an alleged agreement to adjust the consideration. This subsequent arrangement does not erase any misrepresentation that may have occurred earlier. Equally, the failure to honour the promise of refund cannot, by itself, establish that the Respondents had acted with dishonest intention at the inception of the transaction. Whether such intention existed must be examined in the context of the original representations and the surrounding circumstances.

6. More importantly, the material necessary for that examination is substantially identified and available. The Petitioner has himself placed on

[1] (2015) 6 SCC 439
[2] 2023 SCC OnLine SC 569

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record the registered Sale Deed of 1989, the documents executed in June 2014 and those executed by the other claimants in February 2015. The persons concerned are known and can be examined, and the relevant registration records can be summoned through the Court. No particular document requiring seizure or forensic examination, or any other investigative step necessitating the immediate intervention of the police, has been identified. The alleged payment of sale consideration, followed by a promise to refund part of it, also does not, without more, establish the entrustment necessary for an offence under Section 406 IPC. The allegation of threats can likewise be examined on the evidence led by the Petitioner.

7. The absence of any requirement for custodial interrogation, or the fact that the proposed accused are known, may not by themselves justify refusal of an application under Section 156(3) Cr.P.C. Police investigation can be necessary even where both these circumstances exist. However, having regard to the nature of the allegations and the documentary material already available, the Magistrate's decision to proceed by way of a complaint case cannot be faulted. Significantly, the complaint was not dismissed. Only the request for a direction to register an FIR was declined, and the matter was listed for pre-summoning evidence. The Petitioner therefore has the opportunity to establish his allegations through that process. Should the circumstances warrant further inquiry, recourse to Section 202 Cr.P.C. also remains available in accordance with law.

8. The Revisional Court has affirmed the Magistrate's decision. Having already availed the revisional remedy, the Petitioner cannot seek another examination of the same order merely by invoking the inherent jurisdiction

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of this Court. As explained in *Krishnan v. Krishnaveni*[3], interference in such circumstances is reserved for cases involving a serious miscarriage of justice or abuse of process. No such circumstance arises here. The Magistrate has adopted a course expressly recognised by law, without foreclosing the Petitioner's complaint. The impugned order therefore does not warrant interference.

9. The petition is accordingly dismissed. The observations made herein are confined to the question of directing police investigation under Section 156(3) Cr.P.C. and shall not influence the Magistrate while examining the complaint on its own merits. Pending applications, if any, also stand disposed of.

SANJEEV NARULA, J

OCTOBER 12, 2026/ab

[3] (1997) 4 SCC 241

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