

Neutral Citation No. - 2025:AHC:127645

Reserved on: 14.07.2025

Delivered on: 28.07.2025

Court No. - 80

Case :- CRIMINAL REVISION No. - 3431 of 2023

Revisionist :- Smt. Uma Chauhan

Opposite Party :- State Of U.P. And 2 Others

Counsel for Revisionist :- Mohd. Samiuzzaman Khan

Counsel for Opposite Party :- G.A., Sanjay Kr. Srivastava

Hon'ble Rajeev Misra, J.

1. Heard Mr. Mohd. Samiuzzaman Khan, the learned counsel for revisionist, the learned A.G.A for State- opposite party-1 and Mr. Sanjay Kumar Srivastava, the learned counsel representing opposite parties 2 and 3.

2. Perused the record.

3. This criminal revision has been filed challenging the order dated 14.11.2022 passed by Additional Civil Judge (S.D.), Court No.-4, Ghaziabad in Complaint Case No. 5385 of 2021 (Yogesh Kumar Goel Vs. Smt. Uma Chauhan), whereby the discharge application, filed by the revisionist under Section 245(2) Cr.P.C., seeking her discharge in aforementioned complaint case, has been rejected.

4. Record shows that an application dated 21.04.2017, under Section 156(3) Cr.P.C. was filed by complainant-opposite party-2, Yogesh Kumar Goel. The concerned Magistrate, subsequently, directed that aforementioned application shall be treated as a complaint. Accordingly, Complaint Case No. 2308 of 2017 (Yogesh Kumar Goel Vs. Smt. Uma Chauhan) came to be registered.

5. The Court concerned proceeded with the complaint case. Accordingly,

the statement of Priya Goel was recorded on 01.12.2018, under Section 200 Cr.P.C., which was followed by the statement of Yogesh Kumar Goel (complainant), which was recorded on 01.05.2018, under Section 202 Cr.P.C. On the basis of above, Court below examined the veracity of the allegations made in the complaint and having recorded its prima-facie satisfaction on the same, summoned the revisionist to face trial under Section 420 I.P.C., vide summoning order dated 22.12.2018.

6. Thus, feeling aggrieved by the summoning order dated 22.12.2018 passed by Additional Chief Judicial Magistrate, Court No.-5, Ghaziabad as well as the entire proceedings of aforementioned complaint case, the revisionist approached this Court by means of an Application U/s 482 Cr.P.C. No. 27852 of 2019 (Smt. Uma Chauhan Vs. State of U.P. and Others). The same came to be disposed of finally, vide order dated 10.8.2022. For ready reference, the order dated 10.8.2022 is reproduced herein under:-

"Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

The present application under Section 482 Cr.P.C. has been filed to quash the entire proceeding of Complaint Case No. 2308 of 2017 (Yogesh Kumar vs. Uma Chauhan), under Section - 420 I.P.C., Police Station - Sahibabad, District - Ghaziabad as well as summoning order dated 22.12.2018 issued by Additional Chief Judicial Magistrate, Court No.5, Ghaziabad, pending in the court of Additional Chief Judicial Magistrate, Court No.5, Ghaziabad.

Factual matrix of this case has been explained to the extent that there was some agreement between the parties for purchase of some house from opposite party no.2. However, because of some technical development, it so happened that it was not possible to execute the sale deed in question although, the consideration had been passed in the shape of R.T.G.S. and cash to the opposite party no.2.

Now, it so happened that on account of sudden development, some technicalities arose and it was not possible to execute the sale deed in question. Now, an understanding was reached between the vendor and the vendee- the applicant,

that the applicant shall enjoy the possession of the house as a tenant. As per the allegations made in the complaint and the statement by the complainant, the applicant mischievously got installed an electric meter in the house without permission and information to the opposite party no.2. Apart from that, he caused damage to the accommodation in question, thus tried to cheat the complainant.

In the backdrop of aforesaid fact position, contention is that on the basis of claim raised by the complainant, no offence of cheating appears to have been committed by the applicant in this case and the case does not fall within the four corners of Section - 420 I.P.C. In support of his claim, learned counsel for the applicant has placed reliance upon the judgments of Hon'ble Apex Court passed in the case of Rekha Jain vs. The State of Karnataka and Another, reported in 2000 Supreme (SC) 424 and Randheer Singh vs. The State of U.P. & Others reported in 2021 Supreme (SC) 664.

Learned A.G.A. has vehemently opposed the prayer for quashment of the summoning order and submitted that fact, particularly in regard to the understanding being reached between the parties is required to be scrutinized. Similarly, other issue involved in this case is one handed in regard to passing of the consideration for the sale of house through R.T.G.S. and cash. Apart from that, certain other allegations regarding damage being caused to the accommodation has also been levelled against the applicant. No doubt, the argument on the face appears to be carrying force that the complainant has not come out with case that she herself saw the damage being caused to the accommodation in question, still she is not pleading damage to the house.

The rival contentions and the contents of the complaint cannot be scrutinized at length threadbare before this Court in exercise of power under Section - 482 Cr.P.C., but certain issue and points purely factual are required to be judicially scrutinised and adjudicated upon by the lower court concerned and once this exercise is over and something remains for either of the parties, then appropriate judicial remedy can be sought.

At this stage, the applicant is free to approach the lower court concerned seeking his discharge by moving appropriate application within a period of one month from today, if she so chooses, and in case any discharge application is so moved, the same shall be considered in accordance with law.

For a period of one month from today, no coercive action shall be taken against the applicant.

It is made clear that in the event no such application is moved within the time prescribed above, this order will be of no avail to the applicant.

With the aforesaid observation, this application stands disposed of.

Interim order, if any, stands vacated."

7. In compliance of above order dated 10.08.2022, the revisionist filed a discharge application dated 05.09.2022 in terms of Section 245 (2) Cr.P.C., seeking her discharge in aforementioned complaint case. The discharge application filed by the revisionist was opposed by the complainant-opposite party-2 and he filed his objections to the same. Ultimately, Court below by means of an order impugned dated 14.11.2022 passed by Additional Civil Judge (S.D.), Court No.-4, Ghaziabad negated the claim of the revisionist regarding her discharge in aforementioned complaint case.

8. Thus feeling aggrieved by the impugned order dated 14.11.2022 as well as the summoning order dated 22.12.2018 passed by Additional Chief Judicial Magistrate, Court No.-5, Ghaziabad, the accused/revisionist has now approached this Court by means of present criminal revision.

9. Before proceeding to consider the veracity of the impugned order, certain facts, which are admitted to the parties, may be taken note of. A registered agreement to sell was entered into by Smt. Priya Goel, opposite party-3 and the revisionist on 08.07.2016 regarding the premises in dispute. As per the said agreement, the revisionist agreed to purchase the premises in dispute for a consideration of Rs. 38,50,000/-. A sum of Rs. 5,00,000/- was paid towards earnest money. According to the terms of the agreement, the possession over property in dispute was to be handed over after the execution of the sale deed. However, irrespective of above, the premises in dispute were let out on rent to the revisionist. Accordingly, a

rent agreement came to be executed by opposite party-3 Smt. Priya Goel, wherein she is shown as the first party and Smt. Uma Chauhan, the revisionist as the second party. Clause-4 of the rent agreement clearly provides that the water tax and electricity tax shall be paid by the tenant as per the reading in the additional meter. For ready reference, clause-4 of the rent agreement is extracted herein below:-

‘4. यह कि उक्त सम्पत्ति का कब्जा पूर्ण रूप से बरवक्त बैनामा दिया जावेगा।’

10. As a consequent of above, the revisionist came in possession over the premises in dispute as a tenant. Subsequently, an ejectment suit being SCC Suit No. 1 of 2017 was filed by the landlord Smt. Priya Goel seeking ejectment of the tenant/revisionist from the premises in dispute on the ground of default in the payment of rent. The said suit is said to be pending.

11. Perusal of the application dated 21.04.2017 filed by the complainant, initially under Section 156(3) Cr.P.C. but subsequently, registered as a complaint will go to show that it is alleged by the complainant that only two floors of the house in dispute were given on rent but the accused revisionist has forcibly occupied the third floor. Furthermore, on the basis of fraud and forgery, an additional electricity meter has been got installed in the tenanted premises and in the name of the accused.

12. With reference to above, the learned counsel for revisionist contends that from the material brought on record, it is apparent that the dispute between the parties is essentially a civil dispute, which has been dragged into criminal litigation. Referring to the judgment of Supreme Court in **Lalit Chaturvedi and Others Vs. State of U.P. and Another**, 2024 SCC OnLine SC 171, it was urged by the learned counsel for revisionist that the Apex Court in aforementioned judgment has clearly observed that there is a growing tendency to drag civil disputes into criminal litigation and the Court must curb such a tendency. In the present case, the accused revisionist is, admittedly, the tenant of the disputed premises. The landlady has already

filed a suit for eviction on the ground of default in the payment of rent. No ground of material alteration has been raised in the plaint nor it has been alleged that the tenant/revisionist has illegally occupied the third floor and therefore, damages be paid to the landlord regarding the same. As such, present proceedings have been engineered only to gain mileage in aforementioned civil proceedings. On the above premise, the learned counsel for revisionist contended that present criminal proceedings are not only malicious but also an abuse of the process of Court. Consequently, the same are liable to be quashed by this Court.

13. According to the learned counsel for revisionist, even though present criminal revision is directed against an order passed by Court below, whereby the prayer for discharge made by the revisionist has been negated, however, in view of the law laid down by Apex Court in ***Rajiv Thapar and Ors. Vs. Madan Lal Kapoor reported in 2013 (3) SCC 330***, it is urged by the learned counsel for revisionist that this Court in order to do complete justice between the parties can decide the veracity of the proceedings even while dealing with the merits of an order passed on the discharge application filed by an accused. Reliance is placed upon paragraph 30 of the aforementioned report. Accordingly, the same is extracted herein below:-

"30. Based on the factors canvassed in the foregoing paragraphs, we would delineate the following steps to determine the veracity of a prayer for quashment raised by an accused by invoking the power vested in the High Court under Section 482 CrPC:

30.1.Step one: whether the material relied upon by the accused is sound, reasonable, and indubitable i.e. the material is of sterling and impeccable quality?

30.2.Step two: whether the material relied upon by the accused would rule out the assertions contained in the charges levelled against the accused i.e. the material is sufficient to reject and overrule the factual assertions contained in the complaint i.e. the material is such as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false?

30.3.Step three: whether the material relied upon by the accused has not been refuted by the prosecution/complainant; and/or the material is such that it cannot be justifiably refuted by the prosecution/complainant?

30.4.Step four: whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

30.5. If the answer to all the steps is in the affirmative, the judicial conscience of the High Court should persuade it to quash such criminal proceedings in exercise of power vested in it under Section 482 CrPC. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as proceedings arising therefrom) specially when it is clear that the same would not conclude in the conviction of the accused."

14. Reference was then made to the judgment of Supreme Court in **Sanjay Kumar Rai Vs. State of Uttar Pradesh and Another (2022) 15 SCC 720**, wherein Court has held that while deciding the discharge application filed by an accused, the Court is not to act merely as a post office but has to delve into the papers accompanying the police report/the material on record and thereafter, decide the discharge application. Paragraphs 14, 15, 16 and 17 of the aforesaid report are relevant for the issue in hand and therefore, the same are extracted herein under:

"14. The correct position of law as laid down in Madhu Limaye [Madhu Limaye v. State of Maharashtra, (1977) 4 SCC 551 : 1978 SCC (Cri) 10] , thus, is that orders framing charges or refusing discharge are neither interlocutory nor final in nature and are, therefore, not affected by the bar of Section 397(2)CrPC. That apart, this Court in the abovesaid cases has unequivocally acknowledged that the High Court is imbued with inherent jurisdiction to prevent abuse of process or to secure ends of justice having regard to the facts and circumstance of individual cases. As a caveat it may be stated that the High Court, while exercising its aforesaid jurisdiction ought to be circumspect. The discretion vested in the High Court is to be invoked carefully and judiciously for effective and timely administration of criminal justice system. This Court, nonetheless, does not recommend a complete hands off approach. Albeit, there should be interference, may be, in exceptional cases, failing which there is likelihood of serious prejudice to the rights of a citizen. For example, when the contents of a complaint or the other purported material on record is a

brazen attempt to persecute an innocent person, it becomes imperative upon the Court to prevent the abuse of process of law.

15. Further, it is well settled that the trial court while considering the discharge application is not to act as a mere post office. The court has to sift through the evidence in order to find out whether there are sufficient grounds to try the suspect. The court has to consider the broad probabilities, total effect of evidence and documents produced and the basic infirmities appearing in the case and so on. [Union of India v. Prafulla Kumar Samal [Union of India v. Prafulla Kumar Samal, (1979) 3 SCC 4 : 1979 SCC (Cri) 609]]. Likewise, the Court has sufficient discretion to order further investigation in appropriate cases, if need be.

16. This brings us to the present case wherein the High Court has not gone into the merits of the case and did not analyse the case in light of the settled law referred to above.

17. The High Court has committed jurisdictional error by not entertaining the revision petition on merits and overlooking the fact that "discharge" is a valuable right provided to the accused. In line with the fact that the High Court and the court below have not examined the fairness of criminal investigation in this case and other related aspects concerning improvement of witness statements, it is necessary for the High Court to reconsider the entire matter and decide the revision petition afresh. Accordingly, we set aside the impugned order dated 28-11-2018 [Sanjay Kumar Rai v. State of U.P., 2018 SCC OnLine All 5995] and remand the case back to the High Court for its reconsideration in accordance with law."

15. With reference to above, the learned counsel for revisionist contended that Court below, while deciding the discharge application filed by the revisionist, has not delved into the papers on record and rejected the discharge application filed by accused-revisionist by recording stereo type findings. It was thus urged by the learned counsel for revisionist that Court below has not exercised it's jurisdiction diligently but in a casual and cavalier fashion. As such, Court below has committed an illegality in passing the order impugned, therefore, same is liable to be set aside by this Court.

16. Per contra, the learned A.G.A. for State-opposite party-1 and Mr.

Sanjay Kumar Srivastava, the learned counsel representing opposite parties 2 and 3 have vehemently opposed the present criminal revision. They submit that discharge application was filed by revisionist before Court below even when the entire evidence had not yet been recorded. They, therefore, submit that the discharge was claimed by the revisionist on the basis of same material, on the basis of which, Court below had earlier summoned the revisionist. Since no new material had emerged on the record of Court below, therefore, Court below could not review its earlier order, summoning the accused. In view of above, no illegality can be said to have been committed by Court below in negating the prayer for discharge prayed for by the revisionist before Court below. They, therefore, contend that present criminal revision is liable to be dismissed.

17. Having heard the learned counsel for revisionist, the learned A.G.A. for State-opposite party-1, the learned counsel representing opposite parties 2 and 3 and upon perusal of record, this Court finds that the following facts stands crystalized.

- (i). A registered agreement to sell dated 08.07.2016, regarding the premises in dispute was executed by the land lady Smt. Priya Goel in favour of accused-revisionist.
- (ii). Execution of a rent agreement between the same parties as mentioned above regarding the premises in dispute.
- (iii). Clause-IV of the rent agreement clearly provides that the water tax and the electricity tax bill shall be paid by the tenant as per the reading in the additional meter.
- (iv). It is an admitted fact that the premises in dispute were given on rent to the tenant/revisionist.
- (v). There is nothing on record to show that after the premises in dispute were given on rent, an additional meter was got installed by the landlady qua the tenanted premises.

(vi). The landlady has filed a suit for ejectment in which a plea has been raised that the electricity bills have not been paid as per the reading in the additional meter.

(vii). On the one hand, legal action is being sought to be initiated against the revisionist on account of non payment of bills as per the reading in the additional meter, whereas the criminal prosecution has been launched on account of installation of an additional electricity meter by playing fraud and forgery and that the tenant has illegally occupied an additional floor.

(viii). No tenant can enjoy the tenanted premises without electricity and it is not the case of the revisionist that apart from the additional meter, there is any other meter qua the electricity consumption in the tenanted premises.

(ix). Additional electricity meter, installed in the tenanted premises, has been installed by the Department of electricity, which is governed by the Indian Electricity Act as well as U.P. Electricity Supply Code-2005 as amended i.e. U.P. Electricity Supply Code (Thirteenth Amendment), 2018.

(x). No proceedings have been initiated by the landlady before the electricity department for disconnection of the electricity connection given on the additional meter or the removal of the additional meter installed in the tenanted premises on the ground of fraud.

(xi) Notice may also be taken of the provisions contained in Clause 4.4 of the U.P. Electricity Supply Code 2005 and Annexure 4.2, which have material bearing on the controversy involved in present application.

(xii). Clause-4.4 of the U.P. Electricity Supply Code, 2005 reads as under:-

"4.4 Processing of Application for Supply:

(a) Application for new connections, in prescribed form (Annexure 4.1) and

complete in all respects and accompanied by the prescribed Registration-cum-processing fee, shall be filed in duplicate in the office, specified by the Licensee, along with -attested true copies of the following documents:

(i) Proof of ownership of the premises in the form of registered sale deed or partition deed or succession or heir ship certificate or deed of last will or Proof of occupancy such as valid power of attorney or latest rent paid receipt or valid lease deed or indemnity form as per Annexure 4.2. Order Copy of appropriate court, in case of litigation regarding ownership of the premises, has to be enclosed.

(ii) Approval / permission / NOC of the local authority, if required under any law / statute.

(iii) In case of a partnership firm, partnership deed.

(iv) In case of a Limited Company, Memorandum, articles of Association, Certificate of incorporation and list of Director's/certified addresses.

(v) Work completion and Test certificate, on the prescribed format (Annexure 4.4), given by the licensed electrical contractor can be submitted later but prior to commencement of supply.

(vi) Owner's consent for getting new supply connection. (Annexure 4.3)

(vi) Connections to Jhuggi/huntments/Patri/Shopkeepers shall be given as temporary connection only and shall be engaged through pre-paid meters only and the prospective consumer has to provide Aadhar Card/Pan Card/Ration/Voter ID Card/Driving License/Bank Account of Nationalized Bank only (one of these). All the papers issued in regard to this connection will boldly display that the same is a temporary connection and is not a proof of ownership of the said premises.

The conditions mentioned above in sub-clauses (i) to (vi) shall not be applicable for the connections released and requested under this sub-clause;

Provided that, these temporary connections shall be up to 2 KW only; It shall be the responsibility of the licensee to ensure electrical safety in such cases.]

(b) Licensee shall arrange to assist the applicants, if required, in completing the application form.

(c) The Licensee shall verify the application and the enclosed documents at the time of receipt of application. Written acknowledgement shall be issued on the spot. The

acknowledgement shall indicate the date of proposed inspection (not later than 10 days in electrified areas, and two weeks in un-electrified areas) if the application is complete, otherwise it should mention the shortcomings if the application is incomplete.

(d) No application for the new connection for an electrified area shall be refused under any circumstances if it complies with statutory requirements and is in conformity with Act. In case consumer has not been intimated within stipulated period about any deficiencies in his application, the application shall be deemed to have been accepted for processing by the licensee.

(e) Licensee shall not be responsible if the reasons for delay are on account of Right of Way, acquisition of land, technical feasibility and lack of transmission capacity etc, over which the licensee has no reasonable control, provided the reasons for the expected delay are communicated to the applicant within the period specified for energisation.

(f) If any information furnished in application form is found wrong or the installation is defective or the energisation would be in violation of provision of Act / Electricity Rules / Tariff Order, the licensee shall not sanction the load and shall intimate the applicant the shortcomings / reasons thereof in writing on the spot as far as possible."

(xii). Annexure 4.2 of the U.P. Electricity Supply Code 2005 (Indemnity Bond) is relevant for the controversy in hand. Accordingly, same is reproduced herein under:-

"Annexure 4.2

(Ref. Clause 4.4)

This form is available free of cost

INDEMNITY BOND

(If the intending consumer is not the owner of the premises)

To:

From:

-----**Engineer**

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Whereas the land/premises detailed hereunder, belongs to Sri/Smtand

I am only lessee/tenant/occupier of the said land/premises where I have applied for the electricity connection of the said /premises and I am not able to obtain the consent of Sri/Smt.....but produced the proof of occupancy, i.e. valid power of attorney/latest rent paid receipt/registered lease deed.

Therefore, I, in consideration of the grant of electricity connection to me on the conditions of supply for which I have executed the Agreement, further agree to indemnify and keep harmless the Licensee from all damages and claims whatsoever, including costs of suit, original petitions and all manner of legal or other proceedings that the Licensee may incur or likely to incur on account of any action of threat by or at the instance of the owner of the laid Land/premises (whether such owner be the said Sri/Smt.....of any other). I also further agree that such loss, damages and any other claim resulting out of the electricity connection being given to me without the consent of the owner of the land/premises are also recoverable from me and my properties under the provisions of the Revenue Recovery Act, in force at the time of such recovery, or by such other proceedings as the Licensee may deem fit to initiate.

I hold myself answerable to costs of such recoveries and proceedings also.

Place

Date

Witness

Signature of Lessee/tenant/occupier

(1)

(2)"

18. Having heard the learned counsel for revisionist, the learned A.G.A. for State-opposite party-1, the learned counsel representing opposite parties 2 and 3 and upon perusal of record, this Court finds that in view of the facts as noted herein above, it is apparent that present criminal proceedings have been engineered only to gain mileage in the civil

proceedings already initiated by the landlady. Furthermore, the registered agreement to sell and the tenancy agreement were signed by Smt. Priya Goel being the owner/landlady of the disputed premises, whereas the impugned criminal proceedings have been initiated by Yogesh Kumar Goel, who is not the landlord/owner of the house. Surprisingly, the statement of complainant Yogesh Kumar Goel was recorded under Section 202 Cr.P.C. The statement under Section 200 Cr.P.C. is that of Smt. Priya Goel, who is not even a party to the complaint. It is thus apparent that the statement of complainant itself has not been legally recorded before Court below. The Court below, while passing the order impugned, has completely ignored the aforesaid aspect of the matter, which has vitiated the order impugned.

19. The issue as to whether a tenant is entitled to have electricity connection in his name in respect of the tenanted premises in the light of aforementioned provisions came up for consideration before a Division Bench of this Court in **Seema Mansoor Vs. U.P. Power Corporation Ltd. 2014 SCC OnLine All 8521**. The Court considered the provisions of Clause-4.4 as well as Annexure-4.2 of U.P. Electricity Supply Code, 2005 and also the Division Bench judgments of this Court in **Ravi Shanker Giri Vs. SDO, U.P. Power Corporation Ltd. 2007 (4) AWC 3934** and another Division Bench judgment dated 03.01.2014 passed in Writ Petition No. 701425 of 2013, (Tanveer Azam Vs. State of U.P. Ultimately, the Court concluded as follows;-

"In view of the aforesaid facts and discussions, the petitioner being occupier of the premises in question as a tenant has a legal right to obtain electricity connection and the respondents licensee was under an obligation to give connection for supply of electrical energy and the same could not have been refused solely for want of consent of the owner/landlord of the premises."

20. When the facts of the present case are examined in the light of the

observations made by Court in aforementioned judgement, this Court finds that a purely civil dispute has been dragged into criminal litigation. Contradictory pleas have been raised in the civil proceedings/criminal proceedings, The U.P. Supply Code 2005 is a self sufficient code and no proceeding has been initiated by the land lady under the provisions of aforesaid code for removal of the disputed electricity connection. Once the rent agreement executed by the parties itself provides that the tenant shall pay the electricity bill as per the reading in the additional meter it does not stand to reason that the revisionist/lessee has played fraud in getting an additional meter installed in her name in the tenanted premises. In the civil proceedings, the landlady has taken the plea that the electricity dues as per reading in the additional meter are not being paid, whereas criminal prosecution has been launched on the ground that the revisionist has fraudulently got an additional electricity meter installed in the premises in dispute and has illegally occupied an additional floor. No relief regarding damages has been claimed in the ejectment suit filed by the landlady for illegally occupying the third floor of the house. As such, hot and cold is being blown at the same time.

21. Revisionist is alleged to have committed an offence punishable under Section 420 IPC. For ready reference, Section 420 IPC is reproduced herein below:-

“Section 420 IPC - Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

22. Following are the essential ingredients of Section 420 I.P.C.

“(i). There must be deception i.e. the accused must have deceived someone.;

(ii) That by the said deception. The accused must induce a person,

(a) to deliver any property; or

(b) to make, alter or destroy the whole or part of the valuable security or any thing which is signed or sealed and which is capable of being converted into a valuable property.

(iii) That the accused did so dishonestly.”

23. In order to prove a charge under Section 420 IPC, the prosecution must establish that there was intention to commit cheating right from the very inception. Aforesaid view has been expressed by the Apex Court in **N. Raghvender Vs. State of Andhra Pradesh (2021) 18 SCC 70**, wherein following has been observed in paragraph 52 of the report;-

“52. It is equally well-settled that the phrase “dishonestly” emphasises a deliberate intention to cause wrongful gain or wrongful loss, and when this is coupled with cheating and delivery of property, the offence becomes punishable under Section 420IPC. Contrarily, the mere breach of contract cannot give rise to criminal prosecution under Section 420 unless fraudulent or dishonest intention is shown right at the beginning of the transaction. It is equally important that for the purpose of holding a person guilty under Section 420, the evidence adduced must establish beyond reasonable doubt, mens rea on his part. Unless the complaint showed that the accused had dishonest or fraudulent intention “at the time the complainant parted with the monies”, it would not amount to an offence under Section 420IPC and it may only amount to breach of contract.”

24. When the facts of present case are examined in the light of above, it cannot be conclusively concluded that an offence under Section 420 IPC is made out against revisionist. Furthermore, the Apex Court in the case of **N. Raghvender (Supra)** has held that in order to attract a charge under Section 420 IPC, there must be dishonest intention right from the

inception. Admittedly, the revisionist had entered into possession over the disputed property on the basis of rent deed. Furthermore, in view of the law laid down by Division Bench of this Court in **Seema Mansoor (Supra)**, wherein it has been held that a tenant is entitled to have an electricity connection in his favour in respect of the tenanted premises, it cannot be said that the revisionist has obtained electricity connection qua the tenanted premises by playing fraud. Apart from above, in view of the discussion made above, it is apparent that contradictory pleas have been raised by the land lady in civil and criminal proceedings initiated by her. As such, this Court has no hesitation to conclude that impugned criminal proceedings are not only malicious but also an abuse of the process of Court.

25. In view of the discussions made above, the present criminal revision succeeds and is liable to be allowed.

26. It is, accordingly, **allowed**.

27. The impugned order dated 14.11.2022 passed by Additional Civil Judge (S.D.), Court No.-4, Ghaziabad in Complaint Case No. 5385 of 2021 (Yogesh Kumar Goel Vs. Smt. Uma Chauhan), under Section 245(2) Cr.P.C. now pending in the Court of Additional Civil Judge (S.D.), Court No.-4, Ghaziabad as well as the entire proceedings of aforementioned complaint case shall stand quashed.

27. In the facts and circumstances of the case, the parties shall bear their own costs.

Order Date :- 28.07.2025.

Vinay