

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition (Crl) No. 365 of 2025

Ajay Kumar Sikri. Petitioner.

Versus

State of Uttarakhand and Others. Respondents.

Present:

Mr. Vikas Kumar Guglani, learned counsel for the petitioner.

Mr. Bhaskar Chandra Joshi, learned A.G.A. for the State.

Mr. Arvind Vashistha, learned senior counsel assisted by Mr. Vikas Anand, learned counsel for the respondent no. 3.

With

Writ Petition (Crl) No. 453 of 2025

Hari Ram Sharma. Petitioner.

Versus

State of Uttarakhand and Others. Respondents.

Present:

Mr. Parveen Sharma, learned counsel for the petitioner.

Mr. Bhaskar Chandra Joshi, learned A.G.A. for the State.

Mr. Arvind Vashistha, learned senior counsel assisted by Mr. Vikas Anand, learned counsel for the respondent no. 3.

Judgment Reserved on: 12.03.2026

Judgment Delivered on:26.05.2026

Hon'ble Mr. Justice Rakesh Thapliyal, J.

1. Both these two writ petition has been preferred by the petitioners under Article 226 of the Constitution of India for quashing of First Information Report dated 22.04.2025 bearing FIR No. 18 of 2025 lodged by respondent no. 3 for the offences punishable under sections 126, 305, 306, 324(5), 329 r/w section 61 of BNS, 2023, P.S. Mussoorie, District Dehradun.

2. At this juncture, it is essential to outline the factual matrix as described in the FIR to clearly understand the context of both the writ petitions.

3. FIR states that the complainant at present is the Chairman of “Modi Enterprises Group” of Late K.K. Modi and is also the Managing Director of “Godfrey Phillips India Limited” and is the co-owner of the property *namely* Modi Bhawan Part-A, Camel Back Road Library, Mussoorie, which was an undivided property of Late K.K. Modi-the husband of complainant and paying all taxes including house tax as well as electricity bills and “M/s Rajputana Security Services” was hired to provide services to take care and lookafter the property and the said agency deputed one guard, one supervisor, one cleaner and one cook in the aforesaid property. It is alleged in the FIR that Mr. Surendra Sharma hatched a conspiracy to encroach upon the aforesaid property and she came to know from some reliable sources that on 14.02.2025 the entire property was demolished and the furniture, paintings including household articles lying inside the property were also stolen away and Society known as Radha Swami Satsang have encroached and take possession of the property. It is further alleged that after getting information about this incident the complainant instruct her Manager to enquire about the incident. It is alleged that person concerned conspired to demolish the property and take possession and stolen valuable articles due to which she suffered huge financial loss.

4. It is further alleged that she reported to the concerned police station about the said incident but no action was taken on her complaint then she report to the S.S.P., Dehradun, despite this no FIR was registered. Consequently, she moved an application under section 175(3) of BNSS, 2023 for registration of FIR, which was allowed.

5. Learned counsel for the petitioner argued that the petitioners are innocent and has been falsely implicated and even

impugned FIR does not disclose any cognizable offence against the petitioner, since no specific role has been assigned to the petitioner. He further submits that the petitioner is not named in the FIR and the allegations are general in nature and no such demolition took place and the dispute is relating to property which appears to be civil in nature.

6. It is submitted by learned counsel for the petitioners that infact Modi Bhawan was purchased by "Radha Swami Satsang Beas", which is a spiritual society registered under the Societies Registration Act through its authorized representative "Shri Chander Mohan Issar" way back in the year of 2001 by virtue of registered sale deed dated 03.12.2001 from its true owner Dr. Kedarnath Modi. He submits that the petitioner Ajay Kumar Sikri is presently the Area Secretary of the Society and assigned the duties to make arrangement of regular satsang programme and neither he is the owner nor reside there.

7. Mr. Guglani, learned counsel for the petitioner, submits that the impugned FIR does not disclose the commission of any cognizable offence and there is no specific allegations and the Judicial Magistrate without gone through with the police report allowed the application under section 175(3) of BNSS, 2023 though in the police report there was no reference of any such incident as alleged in the impugned FIR except that one person *namely* Surendra Prasad Sati was found at the place but he had no knowledge about such incident.

8. Mr. Praveen Sharma, learned counsel for the petitioner in WPCRL No. 453 of 2025 submits that the dispute is nothing but a property dispute, which is evident from the fact that both the parties the society and the complainant instituted their respective suits against each other and the petitioner Hari Ram Sharma

unnecessarily roped in the issue and as such impugned FIR is liable to be quashed.

9. The Coordinate Bench on 25.04.2025 after gone through with the record observed that the petitioner deserves for protection since the land was purchased by the Society through a registered sale deed in the year 2001 and grant interim protection.

10. Learned senior counsel for the complainant/respondent Mr. Arvind Vashistha argued that the present case is a classic case of fraud and the petitioner has no document/title to demonstrate that society is the owner of Modi Bhawan-1 and the respondent-complainant is a widow who after demise of her husband managing the property through the caretakers and Modi Bhawan-1 was an undivided property belonging to Modi family recorded in the name of respondent's husband Late K.K. Modi and other co-owners and after demise of her husband she became absolute co-owner and paying property tax, electricity bills and also hired M/s Rajputana Security Services for taking care of the property. He further submits that the property owned by the Society and the property in question of which the respondent-complainant is the co-sharer are two distinct properties though located in the same place.

11. Mr. Vashistha further submits that the property in question was purchased by one "Shri Rai Bahadur Gujar Mal Modi" from one Smt. Shakuntla Rao D/o Major S.R. Rao by virtue of registered sale deed dated 18.02.1943, wherein, it was mentioned that the property was an unsold portion of the Rockcliff Estate and Mr. Colonel Kathkusa was the owner of the unsold portion who subsequently sold to Puran Chand Mall and Major S.R. Rao jointly vide sale deed dated 07.08.1935 and subsequently by way of partition deed dated 02.10.1936 between Puran Chand Mall and

Major S.R. Rao property in question came into the share of Major S.R. Rao who gifted the property to Smt. Shakuntla Rao through gift deed dated 19.07.1938 and during the ownership of Smt. Shakuntla Rao a building known as "Rockden House" was constructed over there which was sold out to "Shri Rai Bahadur Gujar Mal Modi" in 1943.

12. Learned senior counsel further submits that the property in question comprises four bedrooms on the ground floor, one room on the first floor, servant's quarter and open verandah and to lookafter this entire property in the year of 2006 services of M/s Rajputana Security Services was hired and all the expenses were borne by respondent no. 3. He further submits that the last invoice was raised on 31.01.2025 amounting to Rs. 1,06,008.84 (Rupees One Lakh Six thousand eight and eighty four paise only).

He further submits that the agents, employeese and accomplices including Mr. Ajay Sikri the present petitioner of the Society entered into a criminal conspiracy and has stolen valuable articles lying in the property including furniture, fixtures, several valuable paintings and antiques worth of lakhs of rupees and Mr. Surendra Sharma, who was looking after the property has played a key role in conspiracy and facilitate the demolition and encroachment over the property in question.

13. Learned senior counsel further submits that Mr. Anil Khanna, the Manager of the complainant visited the site of the property on instruction of informant and all the allegations as alleged in the FIR were found to be true and correct. Certain photographs of dwelling house are also enclosed to demonstrate that there was actual demolition. He submits that immediately a complaint was made to the S.H.O. concerned but on the pressure of the Society the FIR was not lodged. Consequently, the

informant was compelled to move an application under section 175(3) of BNSS, 2023 for registration of the FIR and after taking into consideration all the materials the learned Judicial Magistrate allowed the application and then impugned FIR was registered. He also submits that a written complaint was also given to the S.D.M., Mussoorie, who instruct to the Revenue Officials including the Officials of MDDA and the Municipal Coporation to conduct the joint survey and inspection and submit a report and also issued notice to the petitioner on 01.04.2025 in the capacity of Area Secretary of the Society, however he did not submit any documents before the S.D.M. and the officials of the society obstruct them to conduct survey.

14. Mr. Vashistha submits that a civil suit was also filed by the Society through its authorized representative, wherein, the respondent-complainant arrayed as defendant, however, in the plaint there is no disclosure about pending proceeding before the S.D.M. and in this suit interim injunction was also granted.

Mr. Vashistha also drew attention of this court to the plaint of aforesaid civil suit No. 169 of 2025 instituted by the Society, wherein, following relief has been sought, which read as under:

“i. A decree of permanent injunction restraining the Defendant, her agents, servants, employees, or any person acting on her behalf from alienating, transferring, creating any third-party interest, or in any manner interfering with the peaceful possession and enjoyment of the suit property by the Plaintiff, in the interest of justice, equity, and good conscience.”

ii. Such other or further reliefs as this Hon'ble Court may deem fit, just, and proper in the facts and circumstances of the case, in the interest of equity, fairness, and justice.

In the plaint schedule of the property is also described as follows:

“SCHEDULE OF PROPERTY:

All that property known as "Modi Bhawan No. 2" (previously known as "North Side Cottage") situated at Camel's Back Road, Mussoorie, District Dehradun (Uttaranchal), having a total land area of 0.50 Acre with a residential building erected thereon comprising ground floor covered area of 175.31 square meters, open stairs of 22.85 square meters, first floor covered area of 116.17 square meters and Tin Shed Veranda of 29.78 square meters, together with land underneath the structure, along with all rights of ownership, title, possession, casements, advantages, appurtenances, and all fittings and fixtures attached thereto.

East. Common Passage upto the boundary of property hereby sold (in part)& property known as Modi Bhawan no.1.

West: Common passage passing through the property of Modi Bhawan no.3 linked with Camel back's Road upto the boundary of property hereby sold.

North: Camel Back Road, Mussoorie.

South Property known as Prem Niketan owned by purchaser society."

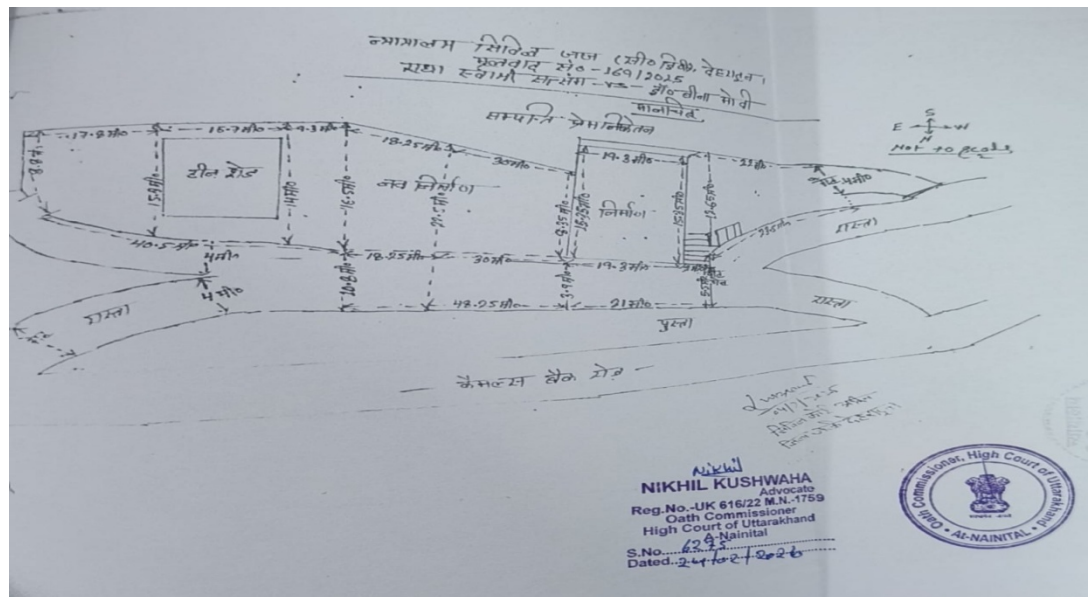
15. Mr. Vashistha also submits that under the garb of interim injunction granted by the Civil Court in the aforesaid suit the Society proceeded by raising construction on the site of the property without any title over the said portion i.e. Modi Bhawan-1 and an application has been moved in the aforesaid pending suit for staying the constructions and the civil court appointed court Ameen on 25.06.2025, who carried out inspection and submit its report in the pending suit.

16. Mr. Vashistha also drew attention of this court of certain notices issued by the Municipal Board to the Society with regard to the illegal construction.

17. In response to the counter affidavit the rejoinder affidavit has also been filed by the petitioner and all the averments of counter affidavit have been denied.

18. Mr. Guglani, learned counsel for the petitioner submits that the learned Civil Judge (S.D.), Dehradun, in pending Suit No. 169 of 2025 appoint the Survey Ameen on 26.06.2025, who submitted its report after spot inspection, wherein, it is clearly mentioned that after visiting the suit property bearing Modi Bhawan-2 Camel Back Road Mussoorie there is an entry gate of RSSB and in the west side of the suit property empty land is found, which is part of the building of the Society and in the southern side there is a property known as "Prem-Niketan" and in the north side Camel Back Road is situated and in the eastern side there is a three storey building which is said to be part of the Society namely RSSB.

In the report it is mentioned that there is one Langar Hall (community kitchen) where around 70 to 80 persons may sit and take langar. The survey report is also accompanied by a site map prepared by Survey Ameen, which is as under:



19. In rejoinder affidavit reference has also been made of another civil suit i.e. O.S. No. 297 of 2025 filed by the respondent-complainant against the Society tilted as Benna Modi vs. Radha Swami Satsang Beas, wherein, the following relief has been sought:

"A. That the defendant be directed to hand over the possession of the property in suit to the plaintiff and if the defendant fails to handover the possession, then the Hon'ble Court be pleased to get it vacated through its agency and handover the possession of the property to plaintiff.

B. That the defendant be directed to pay damages of Rs. 10,00,000 for demolishing the building, stealing the goods lying in the property, artefacts, paintings and other valuable goods.

C. That the defendant be directed to pay Rs. 2.50,000 per month from 14.02.2025 date from defendant being in illegal possession of the property till the date of possession.

D. That the defendant be restrained through permanent injunction from changing the nature of property in suit and raising any kind of construction upon it."

The schedule of the property as described in the plaint is as follows:

"Schedule of Property

All the property known as THE ROCKDEN HOUSE (MODI BHAWAN NO. 1), camel back rond, Mussoorie, Dehradun morefully shown by red color in plan annexed to the plaint bounded and butted as under:

By North	Camel Back Road and Nala
By South	Rockden Cottage
By East	Ravine and the Mull Estate
By West	Ravine."

20. Mr. Vikas Kumar Guglani, learned counsel for the petitioner, submits that the allegations as alleged in impugned FIR prima-facie appears to be a dispute of civil nature, which is evident from the fact that with the same set of allegations and facts the respondent/complainant filed a suit for possession, damages towards cost of stolen articles and on this account alone impugned FIR deserves to be quashed.

He further submits that no specific allegations have been alleged against the petitioner and the petitioner is only act as an Area Secretary of the Society *namely* RSSB, which is a spiritual society and have no connection with the allegations as alleged.

He submits that the society purchased the property in the year of 2001 by virtue of sale deed dated 03.12.2001 from its true owner Dr. Kedarnath Modi, the predecessor of the respondent-complainant and, therefore, it reveals that the complainant with some vested interest create a dispute giving a colour of criminal offence by lodging the impugned FIR.

21. Mr. Guglani also pointed out that learned Judicial Magistrate while allowing the application under section 175(3) of BNSS, 2023 completely overlooked the report of concerned police station, wherein, there is no reference of any such incident as alleged in the impugned FIR. He further pointed out that the documents as enclosed along with the counter affidavit regarding property tax, electricity bills and the receipts of making payment to the employees engaged by M/s Rajputana Security Services, have no relevance since all these are subject matter of pending civil suits filed by both the parties.

22. Mr. Guglani also submits that the impugned FIR does not discloses commission of any cognizable offence and the allegations as alleged appears to be a concocted story, false and fictitious and, hence, the impugned FIR is liable to be quashed.

23. Mr. Guglani in support of his argument placed reliance to the judgment of Hon'ble Apex Court in the case of **Paramjeet Batra vs. State of Uttarakhand and Others** 2013(11) SCC 673 by placing reliance to paragraph-12 and 13, which are 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 criminal proceedings to prevent abuse of process of 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](#) of the 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."

By placing reliance of aforesaid judgment, Mr. Guglani submits impugned FIR is liable to be quashed since the society as well as the complainant already preferred their respective suits against each other i.e. Civil Suit No. 169 of 2025 and O.S. No. 297 of 2025. He submits that the allegations as alleged cannot be presumed to be correct at this juncture since it will seriously prejudice to either of the parties of pending suits and it will also effect the ongoing proceeding of the pending suits.

Learned counsel submits that aforesaid judgment was subsequently followed in the case of **Randheer vs. State of U.P. and Others** 2021(14) SCC 626.

24. The next judgment as relied upon by Mr. Guglani is in the case of **Usha Chakraborty and Another vs. State of West Bengal and Another** 2023(15) SCC 135, wherein, the similar view has been expressed by the Hon'ble Apex Court as in the case of Paramjeet Batra (supra), wherein, it has been held that High Court should not hesitate to quash the criminal proceeding when a civil remedy is available and is adopted.

25. Mr. Guglani submits that admittedly suit bearing O.S. No. 297 of 2025 was instituted by the respondent-complainant with same set of allegations as alleged in the impugned FIR, therefore, both the proceedings cannot be run together, and as such, impugned FIR deserves to be quashed.

26. Mr. Guglani also placed reliance to one more judgment of Hon'ble Apex Court in the case of **Indermohan Goswami and Another vs. State of Uttaranchal and Others** 2021 (14) SCC 626, wherein, it has been held that the court must ensure that criminal prosecution is not used as instrument of harassment or for seeking private vendetta or with ulterior motive to pressurize the other side.

27. In response to the argument of Mr. Guglani, Mr. Arvind Vasishtha, learned senior counsel for the respondent-complainant, submits that the present case concerns a grave and shocking breakdown of law and order since residential dwelling house was demolished in an organized manner by stealing valuable articles which appears to be complete disregard to the rule of law and the petitioner being Area Secretary of the Society with the assistance of his agents, accomplices entered into a criminal conspiracy in order to demolish common wall of two distinct property i.e. Modi Bhawan-1 and Modi Bhawan-2 and dwelling house and after demolition the debris were also removed from the site indicating a deliberate attempt to wipe out the evidences, which is evident from the photographs. He submits that the incident of demolition requires thorough investigation. Mr. Vashistha also pointed out that in WPCRL No. 483 of 2025 there is categorical statement that group of persons were present at the time when the incident took place.

28. Mr. Vashistha submits that the impugned FIR is lodged pursuant to an order passed by learned Judicial Magistrate on an application moved by the complainant under section 175(3) of BNSS, 2023, therefore, on this account alone FIR cannot be quashed.

29. Mr. Vashistha also submits that the SDM concerned instruct for joint inspection as well as for demarcation, however, the Revenue officials were prohibited from carrying out with the process of demarcation, which itself reveals the unlaw conduct of the petitioner.

30. Mr. Vashistha argued that the allegations as alleged in the impugned FIR prima-facie discloses cognizable offences, therefore proper investigation is required. He also submits that Coordinate Bench already disposed of WPCRL No. 483 of 2025 in terms of the judgment of Hon'ble Apex Court in the case of **Arnesh Kumar vs. State of Bihar**, therefore, the present case should also be disposed of in terms of the said judgment.

31. Mr. Vashistha submits that the complete demolition of dwelling house, removal of debris to erase evidence, and organized theft of household articles, obstruction of public authorities from demarcation clearly make out a case against the petitioner, therefore, the impugned FIR cannot be quashed and the ongoing investigation in any manner will not prejudice to either of the parties in the pending civil suits.

In support of his argument Mr. Vashistha placed reliance to the judgment of Hon'ble Apex Court in the case of **Indian Oil Corporation vs. NEPC India Ltd. And Others** 2006 (6) SCC 736 and submits that the civil remedy does not bar criminal

prosecution and the court must examine whether civil dispute have given a cloak of criminal offence.

Next judgment as placed reliance by Mr. Vashistha is in the case of **Kathyayini vs. Sidharth P.S. Reddy and Others** 2025 SCC Online SC 1428 decided on 14.07.2025, wherein, the Hon'ble Apex Court has held that there is no bar existed against criminal prosecution during pendency of civil suit for an offence punishable under criminal law.

Next judgment as relied upon by Mr. Vashistha is in the case of **K. Jagadish vs. Udaya Kumar G.S.** 2020 (14) SCC 552 decided on 06.10.2020, wherein, it has been held that even if civil remedy is available and adopted by a party he cannot be precluded from setting in motion the proceeding in criminal law since the civil proceeding have nothing to do with criminal proceeding when criminal offences are independently made out.

Another judgment as relied upon is in the case of **S.N. Vijay vs. State of Karnataka and Others** 2025 Live Law SC 758 decided on 31.07.2025, wherein, it has been held that there is no bar for instituting criminal proceeding if element of criminality exist, however, in the absence of the element of criminality allowing both the civil and criminal proceeding to continue amounts to an abuse of process of law.

Another judgment as relied upon is **State of Madhya Pradesh vs. Shilpa Jain and Others** 2024 INSC 278 decided on 05.04.2024. By placing reliance on this Mr. Vashistha argued that even if the underlying property rights originated in civil arrangement the act of demolition, illegal trespass and theft constitute a criminal metamorphosis of the dispute and, hence, it

cannot be said that the allegation as alleged attracts the civil dispute.

32. Mr. Vashistha also relied upon the judgment in the case of **Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra** 2021 (19) SCC 401, wherein, it has been held that the FIR is not an encyclopedia which must disclose all facts and details relating to the offences corroborated, therefore, when the investigation by the police is in progress the court should not go into the merits of the allegation in the FIR and police must be permitted to complete the investigation and the High Court should refrain from passing an order of no arrest or not to take any coercive steps.

Mr. Vashistha submits that the law laid down by the Hon'ble Apex Court in the case of **Neeharika Infrastructure Pvt. Ltd.** is fully applicable in the present case and, therefore, the petitioner does not deserve even for an interim protection and the writ petition is liable to be dismissed.

Mr. Vashistha also refer one of the judgment of Hon'ble Apex Court in the case of **Prem Raj vs Poonamma Menon** 2024 INSC 260 decided on 06.03.2024 and submits that the criminal proceedings should be given precedence over civil proceedings.

33. Mr. Vashistha also argued that the case of **Paramjeet Batra vs. State of Uttarakhand** (supra) as relied upon by the learned counsel for the petitioner is distinguishable since in the case of Paramjeet Batra the dispute was essentially about business transaction and shop tenancy which was purely a civil and commercial dispute whereas in the present case the FIR alleges demolition of a dwelling house, illegal trespass and theft of

articles, which is independent one to the dispute as raised in civil suits.

In reference to the case of **Usha Chakraborty and Another** (supra) as relied upon by the learned counsel for the petitioner Mr. Vashistha submits that issue as involved relates to removal of Secretary from an institution which is purely civil dispute, therefore the said judgment is not applicable with the facts of present case as the present case pertains to physical destruction of building.

34. On the other side, Mr. Bhaskar Chandra Joshi, learned A.G.A. for the State, on instructions, submits that after thorough investigation now the final report has been submitted and no criminality has been found, however, he has no instructions whether the final report has been accepted or not.

35. Heard learned counsel for the parties at length and perused the record as well as the judgment as relied upon by the learned counsel for the parties.

36. No doubt the impugned FIR has been lodged pursuant to an order passed by the Judicial Magistrate on an application moved by the respondent-complainant under section 175(3) of BNSS, 2023, however, admitted position is that after registration of impugned FIR both the parties already availed civil remedies. The society *namely* RSSB filed Civil Suit No. 169 of 2025 impleading the respondent-complainant as defendant for seeking permanent injunction for restraining the defendants and agents, servants and employees from alienating, transferring or creating any third party interest or to interfere with the peaceful possession of the plaintiff, wherein, the reference of the incident

as alleged in the FIR has also been given and an interim injunction is also granted by the civil court.

Apart from this the respondent-complainant in para-18 of the counter affidavit also stated statement that under the garb of order of temporary injunction construction is being raised and respondent-complainant being defendant moved an application for restraining the plaintiff of the suit from raising construction, wherein, Civil Court appoint Court Ameen and the matter is subjudice and pending for consideration. The assertion to this effect in the counter affidavit primarily reveals that the dispute appears to be of civil in nature and if at this juncture the investigation of the impugned FIR is permitted to continue then certainly it will prejudice either of the party of the pending civil suit.

The reference of Ameen's report is also given in the counter affidavit however this court cannot go into all these issues particularly when Ameen's report is under scrutiny and subject matter of pending suit and giving any opinion on the Ameen's report at this stage will effect the pending civil suit, however this court is of the view that the ongoing investigation pursuant to the impugned FIR at this stage when both the parties availed civil remedies is unwarranted.

37. Apart from this, respondent-complainant also instituted a civil suit bearing O.S. No. 97 of 2025 titled as **Beena Modi vs. RSSB** wherein, she is praying for possession as well as damages of Rs. 10 lakhs towards demolition and stealing of articles and also damages of Rs. 2,50,000/- per month from 14.02.2025 for illegal possession till restoration of possession, which is still pending for adjudication.

38. I gone through with the judgments as relied upon by the learned counsel for both the parties and also fully agree with the submissions as advanced by Mr. Vashistha, learned senior counsel for the respondent-complainant, that the civil remedy does not bar criminal prosecution, however, it is also settled principle of law that the court should examine whether civil dispute have given a clock of criminal offence and if the court comes to the conclusion that the dispute is given a clock of criminal offence, then the High Court should not hesitate to quash the criminal proceeding to prevent abuse process of court.

39. Now, to examine the case in hand, this court carefully scrutinize the reliefs as sought in both the suits more particularly the reliefs as sought in O.S. No. 297 of 2025 filed by respondent-complainant.

By relief 'A' the respondent-complainant is praying for the possession over the suit property by directing the defendant to handover the possession.

By relief 'B' she is praying for damages from the defendants of Rs. 10 lakhs for demolition and the stolen of articles.

By relief 'C' she is praying for Rs. 2,50,000/- per month from 14.02.2025 the date when the defendant got illegal possession over the suit property till the date of possession.

By relief 'D' she is praying for permanent injunction against the defendants for changing the nature of the suit property and also raising any kind of construction.

The schedule of property as described in the plaint is the same as mentioned in the impugned FIR. Now, the question is

once the respondent-complainant availed the civil remedy in reference to the same property which is subject matter of the impugned FIR then whether continuation of investigation does not amount to procure an evidence to get benefit in pending civil suit and furthermore at this stage when the civil suits are pending in respect of the same property whether the investigation pursuant to the impugned FIR is still warranted.

So far as another suit instituted by the Society i.e. Civil Suit No. 169 of 2025 is concerned in the said suit permanent injunction has been sought against the defendants the respondent-complainant. The schedule of property as mentioned in the plaint of said suit is also the same i.e. Modi Bhawan 1 and Modi Bhawan 2, which according to the respondent-complainant are two distinct properties, therefore, this court is of the view that once both the parties already availed civil remedy by instituting separate suits in respect of the same property then initiation of criminal proceeding at this stage during the pendency of civil suits are wholly unwarranted since outcome of the investigation will seriously prejudice to either of the party of the pending civil suits and will also have an impact on the merit of pending civil suits.

Thus, in view of the discussion as above, this court is of the view that investigation pursuant to the impugned FIR is wholly unwarranted at this stage since the investigation at this stage to somehow will effect the pending civil suits.

40. In view of the discussions as above, this court is of the view that at this juncture when both the parties already availed civil remedy by filing their respective civil suit in respect of the same property, which is subject matter of impugned FIR, therefore, in

such an eventuality both the parties have to pursue their pending civil suits and if final outcome of civil suits reveals any criminality then both the parties are free to launch criminal proceeding against each other but not at this stage when their respective suits are still pending for adjudication. Therefore, this court is of the view that continuation of investigation pursuant to the impugned FIR at this stage is wholly unwarranted. Even otherwise in view of the observation of Hon'ble Apex Court in the case of Paramajeet Batra (supra) since both the parties already adopted and avail the civil remedies which are pending for adjudication, therefore, on account of this also continuation of the investigation pursuant to the impugned FIR is not justifiable and as such the impugned FIR deserve to be quashed.

41. Accordingly, both the writ petitions are allowed and the impugned FIR dated 22.04.2025 bearing FIR No. 18 of 2025 P.S. Mussoorie, District Dehradun is also hereby quashed.

42. It is made clear that any observation or finding as above will not come into the way of Trial Court in deciding the pending suits i.e. Civil Suit No. 169 of 2025 and Civil Suit No. 297 of 2025 and the Trial Court is free to proceed with both the suits independently without being influenced with the observation as above.

43. No order as to costs.

(Rakesh Thapliyal, J.)

26.05.2026

PR