HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

Case No. **CRM(M) No. 207/2024**

Reserved on: 21.08.2026
Pronounced on: 29.08.2026
Uploaded on: 31.08.2026

Whether the operative part or full judgment is pronounced**: Full**

Satyavir Singh Arya, aged 61 years,
R/o House No. 124, B-Block, Vijay Veer Awas,
Near Sector-12, Metro Station, Sector 18 A Dwaraka,
South West Delhi, Presently Jorhat, Assam. …..Petitioner(s)

Through: Ms. Anshuja Tak, Sr. Advocate with
Mr. Habib Ur Rehman, Advocate

Vs

1. U.T. of Jammu and Kashmir
Through Incharge Police Station,
EOW Crime Branch, Jammu.

2. Sh. Pranav Gandhotra,
S/o Sh. Romesh Gandhotra,
189-A, Sarwal Chowk,Jammu.

3. Smt. Shikha Malhotra,
W/o Sh. Romesh Gandhotra,
189-A, Sarwal Chowk,Jammu. ….. Respondent(s)

Through: Mr. Pawan Dev Singh, Dy. AG for R-1
Mr. Mandeep Singh, Advocate for R- 2 & 3

CORAM: **HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE**

JUDGMENT

PRAYER:

01. The petitioner, through the medium of the instant petition filed under Section 482 of the Code of Criminal Procedure, corresponding to Section

528 of the Bharatiya Nagarik Suraksha Sanhita, has sought the following reliefs:

> ***"Quashing:***
> ***(i) FIR No. 07/2024 u/s 420, 120-B IPC registered at P/S EOW Crime Branch, Jammu.***
> ***(ii) Notice under Section 160 Cr.PC dated 26.02.2024 issued by Investigating Officer, EOW, Crime Branch, Jammu."***

Brief Facts:

02. The case set up by the petitioner is that in the second week of November, 2020, respondent No.2, Pranav Gandhotra, agreed to purchase half share in a plot situated at Gurugram, Haryana, jointly with the petitioner, with the proposed transaction to be reflected in the names of the petitioner's wife, Rajpati and respondent No.3, Shikha Malhotra. It is stated that an amount of ₹50 lakhs was deposited by respondent No.2 and his mother towards the proposed purchase, whereas the petitioner paid an amount of ₹65 lakhs. An agreement to sell dated 30.10.2020 was thereafter executed by the owner of the plot in favour of Rajpati and Shikha Malhotra.

03. According to the petitioner, in March, 2021, respondent No.2 deposited an amount of ₹60 lakhs in the petitioner's account, out of which ₹45 lakhs were transferred from the account of his mother and the remaining amount from his own account. It is further stated that the original documents relating to the petitioner's plot measuring 366 square yards situated at Najafgarh, New Delhi, were handed over to respondent No.2 as security and have remained in his possession.

04. It is the petitioner's case that the proposed transaction concerning the Gurugram plot could not ultimately be completed and was mutually cancelled by an agreement dated 24.09.2021. According to the petitioner, upon cancellation of the transaction, the owner of the plot deducted an amount towards damages and returned the remaining consideration. The petitioner states that the amount so received was thereafter distributed amongst the parties in accordance with the understanding between them.

05. The petitioner has referred to various payments made through banking channels as well as in cash pursuant to the aforesaid settlement. According to the calculation furnished by him, an aggregate amount of ₹61.59 lakhs was paid to respondent No.2 and respondent No. 3. The petitioner has relied upon copies of the agreement dated 30.10.2020, the subsequent agreement dated 24.09.2021 and the relevant bank transactions in support of his version of the financial dealings.

06. The petitioner further states that the original documents relating to his Najafgarh property, which had been handed over as security, have not been returned. It is stated that, despite the monetary dealings having been settled, the said documents continue to remain with respondent No.2.

07. The petitioner has also referred to an affidavit dated 03.03.2021 and other documents forming part of the record and has set out the various transactions between the parties. The case of the petitioner is that the monetary dealings referred to in the documents relied upon by him relate to the aforesaid transactions concerning the Gurugram plot and the subsequent settlement between the parties.

08. The petitioner states that FIR No. 07/2024 came to be registered against him and co-accused Jagdish Nain on the complaint of respondent No.2 and that notice dated 26.02.2024 under Section 160 the Code of Criminal Procedure. was thereafter issued by the Investigating Officer, Economic Offences Wing, Crime Branch, Jammu. The petitioner has also placed on record a representation dated 11.03.2024 submitted before the Senior Superintendent of Police, Crime Branch, Jammu.

09. The petitioner has approached this Court with the aforesaid grievance and has placed on record the documents relied upon by him, including the agreements relating to the Gurugram plot, the bank transactions and the documents concerning the Najafgarh property. The record reveals that in the instant petition this Court vide order dated 27.03.2024 was pleased to issue notice to the respondents and investigation in the impugned FIR was stayed in the meanwhile.

<u>Arguments on behalf of Petitioners:</u>

10. Learned Senior counsel appearing for the petitioner submitted that the impugned FIR is liable to be quashed as the allegations contained therein, even if taken at their face value and accepted in their entirety, do not disclose the commission of the offences punishable under Sections 420 and 120-B Indian Penal Code. It was argued that the registration of the FIR in the facts and circumstances of the case amounts to an abuse of the process of law, particularly, when the dispute between the parties arises out of financial and commercial dealings.

11. She further submitted that the transaction between the parties is essentially civil in nature. It was contended that the parties had entered into financial dealings in connection with the proposed purchase of a plot at Gurugram, which ultimately could not be completed and was cancelled by mutual agreement dated 24.09.2021. According to learned counsel, the subsequent dispute concerning payment, repayment and adjustment of amounts cannot, by itself, be converted into a criminal prosecution.

12. It was further submitted that the material placed on record demonstrates that substantial amounts had already been returned to the complainant and persons connected with him. The learned Senior counsel referred to the various cash and banking transactions relied upon in the petition and submitted that, according to the petitioner's calculation, an amount of ₹61.59 lakhs had already been returned, and an amount of ₹1.59 lakhs is recoverable from the complainant. It was argued that these transactions clearly demonstrate the financial nature of the dispute and negate the allegation of dishonest intention.

13. Learned Senior counsel further submitted that the original documents relating to the petitioner's Najafgarh property, which had been handed over to the complainant as security, continue to remain in his possession despite the alleged settlement of accounts. According to learned counsel, this circumstance, coupled with the rival claims regarding the amounts paid and returned, demonstrates that the dispute concerns adjustment of accounts and recovery of documents and is therefore amenable to civil remedies.

14. It was next contended that the essential ingredients of the offence of cheating under Section 420 Indian Penal Code are conspicuously absent. The further case of the petitioner is that the FIR does not disclose any specific representation made by the petitioner, the date or place on which such representation was allegedly made, or the circumstances in which the complainant was induced to part with the alleged amount. It was argued that there is also no material to suggest that the petitioner possessed any dishonest or fraudulent intention at the inception of the transaction.

15. It is submitted that a mere subsequent failure to fulfill a promise or to return money does not constitute cheating unless dishonest intention existed from the very inception of the transaction. According to learned counsel, the subsequent conduct of the parties, including the substantial payments and repayments reflected in the documents placed on record, is inconsistent with an allegation that the petitioner had intended to deceive the complainant from the outset. It was, therefore, urged that the dispute, even if accepted in its entirety, would at best give rise to a civil claim.

16. The petitioner has also challenged the allegation of criminal conspiracy under Section 120-B Indian Penal Code. It was submitted that the FIR does not disclose any material showing a prior agreement or meeting of minds between the petitioner and the co-accused to commit an illegal act.

According to learned counsel, the allegation of conspiracy has been made in a general and mechanical manner and in the absence of the basic ingredients of cheating, the allegation under Section 120-B Indian Penal Code cannot independently sustain the prosecution.

17. Another limb of the submissions was that the Economic Offences Wing, Crime Branch, Jammu had no jurisdiction to register or investigate the impugned FIR. It is submitted that the dispute arises between private individuals out of a private commercial transaction and does not fall within the specialized jurisdiction conferred upon the Crime Branch/Economic Offences Wing under the applicable Government notifications. It was argued that the mere allegation of an offence under Section 420 Indian Penal Code cannot, by itself, confer jurisdiction upon the Economic Offences Wing in a matter which is essentially civil in character.

18. Learned Senior counsel further submitted that the petitioner had never visited Jammu in connection with the transaction in question and that no meeting, negotiation or transaction between the petitioner and the complainant had taken place at Jammu. It was therefore contended that the registration of the FIR by Crime Branch, Jammu and the issuance of notice dated 26.02.2024 under Section 160 of the Code of Criminal Procedure. were without lawful basis. Learned counsel submitted that the notice was issued with the object of harassing and pressurising the petitioner rather than for any legitimate investigative purpose.

19. Relying upon the principles governing exercise of inherent jurisdiction under Section 482 of the Code of Criminal Procedure, the learned counsel submitted that continuation of the impugned criminal proceedings would amount to abuse of the process of law and would defeat the ends of justice. It was further contended that where the allegations, even if accepted in their entirety, do not disclose the commission of the alleged offence, or where the criminal proceeding is manifestly attended with *mala fide*, the High Court is empowered to interdict such proceedings at the threshold. It was accordingly prayed that FIR No. 07/2024, notice dated 26.02.2024 and all consequential proceedings be quashed.

<u>Arguments on behalf of Respondent No. 1</u>

20. Learned counsel for respondent No.1 opposed the petition and submitted that the FIR discloses commission of cognizable offences under Sections 420 and 120-B Indian Penal Code. It was submitted that the complainant had alleged that the accused persons induced him to invest substantial amounts on the promise of making him a partner in the road-maintenance contract and thereafter failed to fulfill the assurance or return the amount due.

21. Learned counsel submitted that the FIR was registered after the allegations were examined by the investigating agency and that the investigation has already resulted in collection of relevant material, including bank statements, documents and statements of witnesses. It was contended that the material collected during investigation *prima facie* supports the allegations of the complainant and therefore the investigation cannot be said to be without foundation.

22. It was further submitted that the complainant had allegedly paid approximately ₹77 lakhs, out of which only ₹17 lakhs were returned. Learned counsel relied upon the affidavit dated 03.03.2021 and the transactions between the parties to contend that the allegations of inducement and non-payment require factual investigation. The petitioner's assertion that the entire amount has been repaid was disputed, and it was contended that the matter requires examination of the relevant financial records.

23. Learned counsel disputed the petitioner's contention that the matter is purely civil or contractual in nature. It was submitted that the existence of a commercial transaction does not bar criminal proceedings where the allegations also disclose fraudulent or dishonest inducement. According to the respondents, whether the petitioner possessed dishonest intention from the inception and whether the complainant was induced by false representations are matters which cannot be determined conclusively at the stage of exercising jurisdiction under Section 482 of the Code of Criminal Procedure.

24. On the question of jurisdiction, learned counsel submitted that the Economic Offences Wing was competent to investigate the matter under S.O.232 of 2022. It was contended that the case involves an amount exceeding ₹20 lakhs and transactions having an inter-State character and therefore falls within the jurisdiction of the Economic Offences Wing. The mere fact that the petitioner did not personally visit Jammu, according to the respondents, does not oust the jurisdiction of the investigating agency.

25. Learned counsel further submitted that an FIR is not required to contain every minute detail of the alleged offence. The FIR merely sets the criminal law in motion, while the purpose of investigation is to collect evidence and ascertain the truth of the allegations. Therefore, according to the respondents, the petitioner's objection regarding absence of certain particulars in the FIR cannot constitute a ground for quashing the proceedings at the threshold.

26. It was further submitted that the petitioner is essentially seeking an adjudication of disputed questions of fact on the basis of documents relied upon by him. Such an exercise, according to the respondents, would amount to conducting a mini-trial at the stage of investigation, which is impermissible in proceedings under Section 482 of the Code of Criminal Procedure. Reliance was accordingly placed upon the settled principle that where the FIR discloses a cognizable offence, the investigating agency must ordinarily be permitted to complete the investigation.

<u>Arguments on behalf of Respondent 2&3</u>

27. Learned counsel appearing on behalf of respondent Nos. 2 and 3 opposed the petition and submitted that the petitioner seeks quashing of FIR No. 07/2024 registered at Police Station Economic Offences Wing, Crime Branch, Jammu for offences under Sections 420 and 120-B IPC, as well as the notice issued under Section 160 CrPC. It was argued that the allegations in the FIR disclose a cognizable offence and that the petitioner is attempting to invite this Court to undertake an examination of contested factual issues at the stage of investigation. According to the respondents, the material collected and the allegations made by the complainant *prima facie* disclose the commission of offences warranting investigation.

28. Learned counsel further submitted that the petitioner's contention that the FIR does not disclose the date, time or complete particulars of the transaction is misconceived. It was contended that an FIR is not an encyclopedia which is required to contain every fact and detail relating to the alleged offence. The purpose of an FIR is to set the criminal law in motion, whereafter it is the duty of the investigating agency to collect the necessary evidence and ascertain the true facts. Therefore, according to the respondents, absence of minute particulars in the FIR cannot constitute a ground for quashing the investigation at its inception.

29. It was further submitted that the petitioner is deliberately attempting to mix up two entirely separate transactions in order to create an impression that the dispute is purely civil in nature. According to the respondents, the subject matter of the impugned FIR concerns the alleged inducement of respondent No.2 to invest money in the Government contract obtained by the petitioner and his partner Jagdish Nain for road maintenance of NH-40 (Kadappa to Kurmool section) in Andhra Pradesh. The respondents asserted that respondent No.2 was induced to invest a substantial amount on the assurance that he would be made a 10% partner in the said contract and that the petitioner also furnished his property documents as security.

30. Learned counsel submitted that, according to the complainant's case, respondent No.2 had invested approximately ₹77 lakhs in the said transaction, out of which only ₹17 lakhs were subsequently returned, leaving an amount of approximately ₹60 lakhs unpaid. It was contended that the petitioner and his partner neither made respondent No.2 a 10% partner in the road-maintenance contract nor executed any partnership document in his favour. The respondents further relied upon the affidavit dated 03.03.2021, whereby, according to them, the accused had assured repayment of the borrowed amount along with profit by 30.04.2021. It was submitted that these circumstances *prima facie* demonstrate dishonest inducement and subsequent failure to honour the representation made to the complainant.

31. Learned counsel specifically disputed the petitioner's reliance upon the transactions concerning the purchase of a plot at Gurugram. It was submitted that the transaction relating to the proposed purchase of the plot from M/s Akash Ganga Infrasolutions LLP was entirely distinct from the transaction forming the subject matter of the impugned FIR. According to the respondents, the Gurugram transaction was subsequently cancelled and the money paid towards that transaction was returned by the concerned company in accordance with the agreement dated 24.09.2021. The respondents therefore contended that the petitioner cannot rely upon the repayment of amounts in the separate Gurugram transaction to contend that the amount involved in the NH-40 transaction had also been repaid.

32. It was further submitted that the petitioner has sought to create a web of transactions by relying upon bank statements and payments made by persons other than the respondents. According to the respondents, several of the transactions relied upon by the petitioner were either payments made by the other accused, namely Jagdish Nain, or transactions involving M/s Akash Ganga Infrasolutions LLP and other entities and did not constitute repayment of the amount allegedly invested by respondent No.2 in the NH-40 contract. It was therefore argued that the petitioner's assertion that ₹61,59,000/- had been repaid was disputed and could not be accepted by this Court at the stage of proceedings under Section 482 of the Code of Criminal Procedure.

33. Learned counsel also submitted that there is no contractual dispute pending between the petitioner and respondent Nos. 2 and 3 before any Court at Delhi in relation to the NH-40 contract, as asserted by the petitioner. According to the respondents, any proceedings pending at Delhi are between the petitioner and his co-accused Jagdish Nain and have no connection with respondent Nos. 2 and 3. It was therefore contended that the petitioner's attempt to portray the present criminal proceedings as arising out of an existing contractual dispute with the respondents is factually incorrect and intended to mislead the Court.

34. On the question of jurisdiction, learned counsel submitted that the Economic Offences Wing, Crime Branch, Jammu is competent to investigate the present FIR. It was contended that since the FIR was registered on 11.01.2024, the applicable notification is S.O. 232 dated

09.05.2022 and not the earlier notifications relied upon by the petitioner. According to the respondents, the said notification confers jurisdiction upon the Economic Offences Wing to investigate cases of fraud and cheating of a peculiar nature having ramifications beyond one District and involving an amount of ₹20 lakhs and above. Since the alleged amount involved is ₹60 lakhs and the parties and transactions extend beyond the territorial limits of one State, the respondents submitted that the jurisdictional requirements are satisfied.

35. Learned counsel further submitted that the fact that the petitioner did not personally visit Jammu or that certain documents were executed at Delhi does not oust the jurisdiction of the investigating agency. According to the respondents, the initial inducement and subsequent financial transactions are alleged to have consequences within the jurisdiction of Jammu and the complainant is based there. It was therefore contended that where an offence is committed partly in different jurisdictions or its consequences ensue in another jurisdiction, the competent authorities of such jurisdiction can investigate the offence.

36. Learned counsel strongly disputed the petitioner's contention that the allegations constitute merely a breach of contract. It was submitted that the existence of a commercial transaction or availability of a civil remedy does not, by itself, bar criminal proceedings where the allegations also disclose the ingredients of a criminal offence. According to the respondents, the present case involves allegations of dishonest inducement from the inception, investment of substantial money on the basis of false assurances, execution of an affidavit and failure to make respondent No.2 a partner as promised.

37. It was further submitted that the ingredients of Section 420 read with Section 415 IPC are *prima facie* satisfied. According to the respondents, the petitioner and his partner induced respondent No.2 to invest Rs.77 lakhs in the NH-40 contract by assuring him that he would be made a 10% partner and by furnishing the petitioner's Najafgarh property documents to gain his confidence. The respondents contended that the subsequent failure to make respondent No.2 a partner, coupled with the non-refund of approximately ₹60 lakhs, demonstrates that the dishonest intention existed from the inception. The respondents therefore maintained that the allegations disclose more than a mere subsequent breach of contractual obligation.

38. Lastly, learned counsel submitted that the petition raises disputed questions of fact which cannot appropriately be adjudicated in proceedings under Section 482 of the Code of Criminal Procedure. It was argued that the correctness of the rival claims regarding repayment, the identity of the transactions, the bank transfers, the alleged inducement and the existence of dishonest intention are matters which require investigation and collection of evidence. It was accordingly prayed that the petition be dismissed and the investigation in FIR No. 07/2024 be permitted to proceed in accordance with law.

<u>Legal Analysis</u>:

39. Heard learned Senior counsel for the petitioner at length and also learned counsel appearing for respondent Nos. 2 and 3 as well as learned Deputy Advocate General appearing for respondent No.1 and perused the record.

40. Upon consideration of the pleadings, the material placed on record and the rival submissions advanced at the Bar, the following questions arise for determination:

> **"1. Whether the allegations contained in the FIR*prima facie* disclose the commission of any cognizable offence?**
> **2. Whether the facts and circumstances of the present case are such as to warrant interference by this Court in exercise of its inherent jurisdiction under Section 482 Cr.P.C?**

Question No. 1- Whether the allegations contained in the FIR prima facie disclose the commission of any cognizable offence?

41. The case of the complainant, as reflected in the FIR and the status report, is that the petitioner and co-accused Jagdish Nain, pursuant to an alleged conspiracy, induced the complainant to part with money on the representation connected with the NH-40 road-maintenance contract. The complainant alleges that an aggregate amount of ₹77 lakhs was paid, including ₹17 lakhs in the account of Jagdish Nain and ₹60 lakhs in the account of Nain Enterprises, and that only ₹17 lakhs were subsequently returned.

42. The allegations, therefore, are not confined to a mere failure to fulfill a contractual obligation or discharge a financial liability arising out of a transaction between the parties. The case of the prosecution is that the complainant was induced to part with money on the basis of a particular representation and that such inducement was allegedly part of a concerted design involving the petitioner and the co-accused. Whether the material ultimately substantiates these allegations is a matter to be examined on the basis of the evidence collected during the course of investigation. At the present stage, however, the Court is only required to consider whether the allegations in the FIR, taken at their face value, disclose the *prima facie* commission of a cognizable offence.

43. The petitioner has sought to meet the aforesaid allegations by placing reliance upon the agreement to sell dated 30.10.2020 concerning the Gurugram property, the subsequent agreement dated 24.09.2021, the bank transactions and the alleged repayment of amounts. The petitioner asserts that these documents demonstrate that the parties had entered into a separate transaction concerning the Gurugram property and that the amount payable in relation thereto was subsequently settled. Respondent Nos. 2 and 3, however, dispute the petitioner's description of the transactions and contend that the Gurugram transaction is wholly distinct from the NH-40 transaction forming the subject matter of the FIR.

44. Thus, the Court is confronted with two competing factual versions. The petitioner seeks acceptance of his version on the strength of the documents relied upon by him, whereas the complainant disputes the relevance and character of those documents and attributes the payments to an altogether different transaction. To determine which of these competing versions is correct would require examination of the underlying transactions, bank records, agreements, the affidavit dated 03.03.2021 and the circumstances in which the amounts were paid and allegedly returned. Such an exercise would necessarily involve appreciation of contemporaneous official record, which is not the scope and ambit of proceedings invoked through the medium of instant petition filed under Section 482 of the Code of Criminal Procedure.

45. The Hon'ble Supreme Court in the celebrated judgment titled '**State of Haryana v. Bhajan Lal', 1992 Supp (1) SCC 335**, while examining the scope of the extraordinary jurisdiction of the High Court under Article 226 of the Constitution and its inherent jurisdiction under Section 482 of the Code of Criminal Procedure, illustrated the categories of cases in which such jurisdiction may be exercised. It was held as under:

> ***"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers Under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.***
>
> ***1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima-facie constitute any offence or make out a case against the accused.***
>
> ***2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers***

> ***Under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.***
>
> ***3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.***
>
> ***4. Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated Under Section 155(2) of the Code.***
>
> ***5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.***
>
> ***6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.***
>
> ***7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."***

46. The principles enunciated in *Bhajan Lal* (supra) make it clear that the first and foremost enquiry, at the stage of considering a prayer for quashing, is whether the allegations contained in the FIR, if taken at their face value and accepted in their entirety, disclose the commission of an offence. If the allegations do disclose a cognizable offence, the Court is ordinarily not required to examine the correctness of those allegations or undertake an assessment of the material relied upon by the respective sides. The question at this stage is one of disclosure of an offence and not proof of the offence.

47. Tested on the aforesaid parameter, the allegations in the present FIR cannot be said to be bereft of the essential factual foundation of the offences alleged. The complainant has specifically alleged that money was parted with pursuant to a representation concerning the NH-40 road-maintenance contract, that the petitioner and the co-accused were allegedly involved in the transaction, that the complainant was allegedly to be made a 10% partner in the said contract and that, despite the alleged representation, the promised arrangement did not materialise and the amount allegedly remained unpaid. These allegations, if taken at their face value, are sufficient to require an investigation into the circumstances in which the money was obtained, the representations allegedly made and the role attributed to the accused.

48. The petitioner has also alleged that the criminal proceedings have been initiated to pressurize and harass him and to compel him to accede to an alleged monetary demand. However, at this stage, such allegation of mala fide cannot be examined in isolation from the factual controversy between the parties. The mere existence of previous financial dealings, competing claims regarding repayment or the availability of civil remedies does not, by itself, establish that the FIR is actuated by an ulterior motive. Whether the allegations are false or motivated would itself require examination of the underlying facts and material.

49. The Hon'ble Supreme Court in '**Dineshbhai Chandubhai Patel v. State of Gujarat', (2018) 3 SCC 104**, while considering the scope of interference with an FIR at the stage of investigation, reiterated the limited nature of the enquiry to be undertaken by the High Court. The Court held as under:

> "*29. The High Court, in our view, failed to see the extent of its jurisdiction, which it possesses to exercise while examining the legality of any FIR complaining commission of several cognizable offences by the accused persons. In order to examine as to whether the factual contents of the FIR disclose any prima facie cognizable offences or not, the High Court cannot act like an investigating agency and nor can exercise the powers like an appellate court. The question, in our opinion, was required to be examined keeping in view the contents of the FIR and prima facie material, if any, requiring no proof.*
>
> *30. At this stage, the High Court could not appreciate the evidence nor could draw its own inferences from the contents of the FIR and the material relied on. It was more so when the material relied on was disputed by the complainants and vice versa. In such a situation, it becomes the job of the investigating authority at such stage to probe and then of the court to examine the questions once the charge-sheet is filed along with such material as to how far and to what extent reliance can be placed on such material.*
>
> *31. In our considered opinion, once the court finds that the FIR does disclose prima facie commission of any cognizable offence, it should stay its hand and allow the investigating machinery to step in to initiate the probe to unearth the crime in accordance with the procedure prescribed in the Code.*"

50. The aforesaid judgment is of direct relevance to the present case. Once the FIR discloses allegations requiring investigation, this Court cannot, at the threshold, undertake its own assessment of the material or draw conclusions in place of the investigating agency. The matters raised by the petitioner, therefore, cannot be conclusively examined by evaluating the evidentiary worth of the material relied upon by the respective parties at this stage.

51. Applying the aforesaid principle to the facts of the present case, the petitioner relies upon the Gurugram agreements and various financial transactions to contend that the amounts referred to by the complainant pertain to a different transaction and stood substantially settled. The complainant, on the other han1d, disputes the very character and relevance of those transactions and maintains that the amount alleged in the FIR relates to the NH-40 contract. The Court cannot, at this stage, determine the correctness of either version by undertaking a comparative examination of the documents or by drawing inferences from the bank transactions. That exercise falls within the domain of investigation.

52. The contention that the dispute is essentially civil or commercial in nature also does not, at this stage, furnish a ground for holding that no cognizable offence is disclosed. A transaction may have civil consequences and yet, depending upon the allegations and the circumstances in which the transaction was entered into, may also disclose the ingredients of a criminal offence as well. The relevant consideration, therefore, is not merely the nature of the underlying transaction, but whether the allegations disclose the ingredients of the offence alleged.

53. In the present case, the allegations of inducement, payment of substantial amounts pursuant thereto, the representation regarding the complainant's proposed participation in the NH-40 contract, the alleged involvement of the petitioner and co-accused and the subsequent non-payment of the amount claimed by the complainant, taken cumulatively, do disclose a prima facie case warranting investigation. Whether the representation was in fact made, whether the complainant was induced thereby, whether the petitioner possessed the requisite dishonest intention and whether the amounts allegedly paid were subsequently returned are all matters which require factual determination on the basis of evidence.

54. The petitioner's reliance upon the Gurugram transaction does not alter the position. The respondents have specifically disputed the petitioner's assertion that the payments relied upon by him constituted repayment of the amount involved in the NH-40 transaction. The question as to whether the two sets of transactions are connected or entirely distinct, and whether the amounts reflected in the documents relied upon by the petitioner constitute repayment of the amount alleged in the FIR, cannot be conclusively determined in the present proceedings without undertaking an examination of the competing versions and the evidentiary material relied upon by the parties.

55. Likewise, the petitioner's objection regarding the jurisdiction of the Economic Offences Wing, Crime Branch, Jammu cannot, in the facts of the present case, be determined merely on the basis of his assertion that he did not personally visit Jammu. The respondents have placed a different factual position before the Court, while the status report refers to the transactions and material which, according to the investigating agency, form part of the investigation. Whether the requisite territorial or statutory nexus is ultimately established is a matter which can be examined in accordance with law on the basis of the material collected during investigation. At this stage, the jurisdictional issues arising from the rival factual assertions cannot be conclusively determined on the basis of the pleadings alone.

56. It is also significant that the investigation had already commenced and as reflected in the status report, the relevant record pertaining to the complaint had been taken into possession and examined, bank statements had been analyzed, statements of the complainant and witnesses had been recorded and notices under Section 160 Cr.P.C. had been issued. The investigation thereafter remained stayed pursuant to the interim order passed by this Court. In these circumstances, permitting the investigating agency to examine the competing versions would not amount to permitting an investigation into an allegation which is ex facie non-criminal; rather, it would enable the investigating agency to ascertain the factual position underlying the allegations made in the FIR and if the investigation is allowed to commence/proceed, only then the truth will come out with regard to the rival claims of both the parties.

57. Viewed in the aforesaid perspective, the present case does not fall within the category where the allegations, even if accepted at their face value, fail to disclose any cognizable offence. Nor can the allegations be characterized as so absurd or inherently improbable that no investigation would be warranted. The petitioner's defence rests upon documents whose relevance and bearing on the transaction in question are contested, as well as a competing interpretation of the financial transactions.

58. The Court is, therefore, not required at this stage to determine whether the complainant's allegations are ultimately true, whether the petitioner possessed dishonest intention from the inception, whether the amount of Rs.77 lakhs was in fact paid for the NH-40 transaction, or whether the amounts relied upon by the petitioner constitute repayment. Those questions necessarily require examination of evidence. The limited conclusion which can be reached at this stage is that the allegations, taken at their face value, disclose a cognizable offence and warrant investigation in accordance with law.

59. Accordingly, this Court is of the considered view that the impugned FIR discloses a *prima facie* factual foundation constituting cognizable offences and cannot, at this stage, be quashed on the ground that no offence is made out.

Question No.1 is, accordingly, answered against the petitioner.

<u>Question No. 2</u> ***-Whether the facts and circumstances of the present case are such as to warrant interference by this Court in exercise of its inherent jurisdiction under Section 482 Cr.P.C?***

60. Having concluded that the FIR discloses allegations requiring investigation, the next question is whether the factual controversies raised by the petitioner can nevertheless be adjudicated by this Court in exercise of its inherent jurisdiction.

61. There can be no quarrel with the proposition that the inherent jurisdiction of the High Court to prevent abuse of the process of law and to secure the ends of justice, is wide. However, at the same time, such power is required to be exercised sparingly, with circumspection and only in appropriate cases particularly, where the investigation is at its nascent stage. At the stage of considering a prayer for quashing of an FIR, the Court is not required to determine whether the allegations would ultimately be proved, whether the material collected by the investigating agency would sustain a charge or whether the accused would ultimately be entitled to acquittal.

The limited enquiry is whether, on a plain reading of the FIR and the material accompanying it, the allegations disclose a cognizable offence requiring investigation.

62. The aforesaid principle finds its early expression in the decision of the Privy Council '**Emperor v. Khwaja Nazir Ahmad', AIR 1945 PC 18**, wherein the Privy Council emphasized the distinction between functions of the investigating agency and those of the Court and recognized that where information discloses a cognizable offence the police ordinarily have the statutory right and the duty to investigate the same. It was held as under:

> "***In India, as has been shown, there is a statutory right on the part of the police to investigate the circumstances of an alleged cognizable crime without requiring any authority from the judicial authorities, and it would, as their Lordships think, be an unfortunate result if it should be held possible to interfere with those statutory rights by an exercise of the inherent jurisdiction of the Court. The functions of the judiciary and the police are complementary, not overlapping, and the combination of individual liberty with a due observance of law and order is only to be obtained by leaving each to exercise its own function, always of course subject to the right of the Court to intervene in an appropriate case when moved under Section 491 of the Criminal Procedure Code to give directions in the nature of habeas corpus. In such a case as the present, however, the Court's functions begin when a charge is preferred before it and not until then. It has sometimes been thought that Section 561A has given increased powers to the Court which it did not possess before that section was enacted. But this is not so. The section gives no new powers, it only provides that those which the Court already inherently possess shall be preserved and is inserted, as their Lordships think, lest it should be considered that the only powers possessed by the Court are those expressly conferred by the Criminal Procedure Code and that no inherent power had survived the passing of that Act."***

63. The Hon'ble Supreme Court, in **'R.P. Kapur v. State of Punjab', AIR 1960 SC 866**, while delineating the nature and scope of the inherent jurisdiction of the High Court under Section 561-A of the erstwhile Code of Criminal Procedure, held as under:

> ***"6. Before dealing with the merits of the appeal, it is necessary to consider the nature and scope of the inherent power of the High Court under s. 561-A of the Code. The said section saves the inherent power of the High Court to make such orders as may be necessary to give effect to any order under this Code or to prevent abuse of the process of any court or otherwise to secure the ends of justice.***
>
> ***….In exercising its jurisdiction under s. 561-A the High Court would not embark upon an enquiry as to whether the evidence in question is reliable or not. That is the function of the trial magistrate, and ordinarily it would not be open to any party to invoke the High Court's inherent jurisdiction and contend that on a reasonable appreciation of the evidence the accusation made against the accused would not be sustained. Broadly stated that is the nature and scope of the inherent jurisdiction of the High Court under s. 561-A in the matter of quashing criminal proceedings, and that is the effect of the judicial decisions on the point."***

64. From the law laid down by Hon'ble Supreme Court, it can safely be held that the inherent jurisdiction of the High Court may be exercised in appropriate cases to prevent abuse of the process of the Court or otherwise to secure the ends of justice. At the same time, the Court identified the limited categories in which such interference may be justified, including cases, where there is a legal bar to the institution or continuance of the proceedings, where the allegations do not disclose the offence alleged, or where the material collected is manifestly incapable of supporting the charge. The Court also cautioned against embarking upon an enquiry into the reliability of evidence at that stage.

65. The Hon'ble Supreme Court in **'State of Orissa v. Saroj Kumar Sahoo', (2005) 13 SCC 540**, reiterated that the inherent jurisdiction under Section 482 of the Code of Criminal Procedure is to be exercised sparingly, carefully and with caution. It was held as under:

"8. Exercise of power under Section 482 CrPC in a case of this nature is the exception and not the rule. The section does not confer any new powers on the High Court. It only saves the inherent power which the Court possessed before the enactment of CrPC. It envisages three circumstances under which the inherent jurisdiction may be exercised, namely, (i) to give d effect to an order under CrPC, (ii) to prevent abuse of the process of coun, and (iii) to otherwise secure the ends of justice. It is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with procedure can provide for all cases that may possibly arise. The courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the section which merely recognises and preserves inherent powers of the High Courts. All courts, whether civil or criminal possess, in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in the course of administration of justice on the principle of "quando lex aliquid alicui concedit, concedere videtur id sine quo res ipsa esse non potest" (when the law gives a person anything, it gives him that without which it cannot exist). While exercising the powers under the section, the court does not function as a court of appeal or revision. Inherent jurisdiction under the section, though wide, has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised ex debito justitiae to do real and substantial justice for the administration of which alone the courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has the power to prevent abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers the court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of

court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the report, the court may examine the question of fact. When a report is sought to be quashed, it is a permissible to look into the materials to assess what the report has alleged and whether any offence is made out even if the allegations are accepted in toto."

66. The principles reiterated in *Saroj Kumar Sahoo* (supra) operate as a restraint against converting proceedings under the extraordinary jurisdiction of this Court into a preliminary trial concerning the truth or falsity of the allegations. The said principle is attracted with considerable force to the present case. If this Court were to determine, at this stage, whether the documents relied upon by the petitioner establish the correctness of their version or whether the complainant's allegation of concealment is false, the Court would necessarily be required to undertake an assessment of matters requiring examination of the competing factual versions. Such an exercise is neither warranted nor permissible at this stage.

67. The aforesaid judgments, read together, establish that the investigation of a cognizable offence falls primarily within the statutory domain of the police and that the inherent jurisdiction of the High Court is to be exercised only in appropriate cases to prevent abuse of process or secure the ends of justice. While exercising such jurisdiction, the Court cannot assume the role of an investigating agency, appellate Court or revisional Court, or undertake an enquiry into the reliability of disputed evidence. The power under Section 482 of the Code of Criminal Procedure, though wide, is required to be exercised sparingly, carefully and with caution. Where the allegations disclose a cognizable offence and their truthfulness or evidentiary worth remains to be examined, the Court ought not to interdict the investigation or adjudicate upon the rival factual versions at the threshold.

68. The law governing interference with an ongoing investigation has been authoritatively settled by the Hon'ble Supreme Court in '**M/s Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra', (2021) 19 SCC 401**, wherein the Court reiterated that investigation into a cognizable offence should not ordinarily be thwarted and that an interim stay of investigation cannot be granted routinely, casually or mechanically. It was held as under:

> ***"23. In view of the above and for the reasons stated above, our final conclusions on the principal/core issue, whether the High Court would be justified in passing an interim order of stay of investigation and/or "no coercive steps to be adopted", during the pendency of the quashing petition Under Section 482 Code of Criminal Procedure and/or Under Article 226 of the Constitution of India and in what circumstances and whether the High Court would be justified in passing the order of not to arrest the Accused or "no coercive steps to be adopted" during the investigation or till the final report/chargesheet is filed Under Section 173 Code of Criminal Procedure, while dismissing/disposing of/not entertaining/not quashing the criminal proceedings/complaint/FIR in exercise of powers Under Section 482 Code of Criminal Procedure and/or Under Article 226 of the Constitution of India, our final conclusions are as under:***
> ***i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into a cognizable offence;***
> ***ii) Courts would not thwart any investigation into the cognizable offences;***
> ***iii) It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on;***

iv) The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the 'rarest of rare cases (not to be confused with the formation in the context of death penalty).

v) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;

vi) Criminal proceedings ought not to be scuttled at the initial stage;

vii) Quashing of a complaint/FIR should be an exception rather than an ordinary rule;

viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere;

ix) The functions of the judiciary and the police are complementary, not overlapping;

x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;

xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;

xii) The first information report is not an encyclopedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

xiii) The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the court;

xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR/complaint;

xv) When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR;

xvi) The aforesaid parameters would be applicable and/or the aforesaid aspects are required to be considered by the High Court while passing an interim order in a quashing petition in exercise of powers under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India. However, an interim order of stay of investigation during the pendency of the quashing petition can be passed with circumspection. Such an interim order should not require to be passed routinely, casually and/or mechanically."

69. The Hon'ble Supreme Court, in '**Siddharth Mukesh Bhandari v. State of Gujarat', Criminal Appeal No. 1044 of 2022, decided on 02.08.2022**, reiterated the principles laid down in **M/s. Neeharika Infrastructure Pvt. Ltd.**, holding that the Investigating Agency has the right to investigate and that stay of investigation under Section 482 of the Code of Criminal Procedure can be granted only in the rarest of rarecases. The Hon'ble Supreme Court held as under:

"6. …..The High Court has not properly appreciated the principles and the law laid down by this Court in the case of M/s. Neeharika Infrastructure Pvt. Ltd. (supra). What is emphasized by this Court in the case of M/s. Neeharika Infrastructure Pvt. Ltd. (supra) is that grant of any stay of investigation and/or any interim relief while

> ***exercising powers under Section 482 Cr.P.C. would be only in the rarest of rare cases."***

70. The position is further clarified by the principles laid down by the Hon'ble Supreme Court in '**State of Odisha v. Pratima Mohanty & Ors.', Criminal Appeal Nos. 1455–1456 of 2021, decided on 11.12.2021**, wherein the Court reiterated that the power under Section 482 of the Code of Criminal Procedure must be exercised sparingly and in rare cases. The High Court cannot, at this stage, assess the reliability or genuineness of the prosecution material or conduct a mini-trial. The Hon'ble Supreme Court held as under:

> ***"6.2 It is trite that the power of quashing should be exercised sparingly and with circumspection and in rare cases. As per settled proposition of law while examining an FIR/complaint quashing of which is sought, the court cannot embark upon any enquiry as to the reliability or genuineness of allegations made in the FIR/complaint. Quashing of a complaint/FIR should be an exception rather than any ordinary rule. Normally the criminal proceedings should not be quashed in exercise of powers under Section 482 Cr.P.C. when after a thorough investigation the charge sheet has been filed. At the stage of discharge and/or considering the application under Section 482 Cr.P.C. the courts are not required to go into the merits of the allegations and/or evidence in detail as if conducing the mini trial. As held by this Court the powers under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the Court."***

71. The expression *"mini-trial"*, employed by the Supreme Court in *Pratima Mohanty* (supra), aptly captures what this Court has been urged to undertake in the present proceedings. The petitioner's case would require the Court to examine the nature and interrelationship of the transactions relied upon by the respective parties, compare the agreements and financial records, and determine whether the payments relied upon by the petitioner relate to the transaction forming the subject matter of the FIR or to an altogether separate arrangement. Such an exercise would necessarily entail an assessment of the evidentiary significance of the material relied upon by the parties and the drawing of conclusions from competing versions of the transactions. This, in substance, would travel beyond the limited scrutiny permissible under Section 482 of the Code of Criminal Procedure and amount to a preliminary adjudication on matters which are required to be examined in the course of investigation. The Court, therefore, cannot undertake such an exercise at this stage.

72. The petitioner maintains that the transactions relied upon by him were genuine and related to the contractual arrangement in question. The complainant, however, contends that those transactions pertain to another contract and have been relied upon to conceal the true nature of the dealings. The correctness of these rival versions, and the true relevance of the transactions relied upon by the petitioner, cannot be conclusively determined in the present proceedings and require examination in the course of investigation.

73. The same principle was reiterated by the Hon'ble High Court in **Khursheed Ahmad Mahajan & Anr. v. Government of J&K & Ors., CRM(M) No. 115/2022, decided on 20.03.2025**, wherein the Court declined to quash the FIR under Sections 420 and 120-B IPC, holding that disputed questions of fact and evidentiary issues requiring a full-fledged trial cannot be examined in proceedings under Section 482 of the Code of Criminal Procedure. The Court further held that where the FIR discloses a *prima facie* cognizable offence, the High Court cannot undertake an appellate or trial-like assessment of the material. The Court held as under:

> ***"24.When the instant petition and the contents contained therein are read in the context of the final report, the matter requires and demands full dress trial and examination of facts by this Court as if this Court is in appeal and acting as an appellate court and to draw its own conclusion in relation to the impugned FIR, complaint and proceedings emanating therefrom. This is not the aim and objective of the provisions of Section 482 Cr. P.C. particularly when the petition on hand does not unveil any ground muchless cogent or material one, to indicate that the inherent powers are to be exercised to prevent the abuse of process of law and to secure the ends of justice. In that view of the matter, the impugned FIR does not call for any interference and as a result whereof, the instant petition is liable to be dismissed.***
>
> ***25.For the reasons discussed above, the instant petition is without any merit and is, accordingly, dismissed with connected CM(s). Interim direction, if any, shall stand vacated"***

74. In view of the principles laid down, the present case cannot be regarded as one of the "*rarest of rare*" cases warranting interference under Section 482 of the Code of Criminal Procedure, as the FIR discloses *prima facie* cognizable offences and its allegations require investigation, appreciation of evidence and examination of witnesses. The factual assertions advanced by the petitioner in support of his defence cannot be adjudicated at this preliminary stage, nor can the High Court conduct a mini-trial or assess the probability of conviction. Since no exceptional circumstance demonstrating manifest abuse of process or complete absence of offence has been established, continuation of the FIR is necessary in the interests of justice. Consequently, the interim stay of investigation/FIR cannot be continued and is liable to be vacated, as staying the proceedings in such circumstances would improperly obstruct a legitimate investigation.

75. In the present matter, acceptance of the petitioner's case at this stage would necessarily require this Court to determine whether the documents relied upon by the petitioner correctly explain the transactions forming the subject matter of the FIR and whether the complainant's allegation of concealment is false. This Court cannot undertake such an exercise at the stage of investigation. The fact that the dispute has a contractual background does not alter the position. The Court is not required to determine at this stage whether the dispute will ultimately be established as criminal or civil. That determination must await the result of the investigation and, if warranted, the subsequent proceedings in accordance with law.

76. The present case, therefore, does not fall within that narrow class of cases where the continuation of investigation would itself amount to an abuse of the process of law. Rather, the circumstances indicate that the investigation has to be permitted to proceed so that the competing versions of the parties may be examined on the basis of the relevant material.

77. It is also significant that the complainant alleges substantial financial investment and consequential loss. Whether the allegations are ultimately established or not is not a matter for determination at this stage. What is relevant is that the allegations are capable of factual verification through investigation. The Court must consequently maintain the distinction between a case where the allegations do not disclose any offence at all and a case where the allegations disclose matters requiring investigation, notwithstanding the contrary version put forward by the accused. The present case falls in the latter category.

78. Viewed cumulatively, the authorities discussed above speak in one voice on three interlocking propositions:

(i) ***that investigation is the statutory domain of the police and not of the Court;***

(ii) ***that the inherent jurisdiction under Section 482 of the Code of Criminal Procedure is confined to a prima facie examination of the FIR and does not extend to weighing rival documents or assessing probabilities;***

(iii) ***that an interim stay of investigation is an extraordinary measure to be granted only in the rarest of rare cases, and never as a matter of course***.

Tested against this settled body of precedent, the petitioner's case rests entirely on a factual dispute over the accuracy of the underlying transactions. Consequently, the case set up by the petitioner does not warrant the continuation of the interim stay.

Question No.2 is, accordingly, answered against the petitioner and in favour of the respondents as the case does not fall under the rarest of the rare case.

Conclusion:

79. Upon consideration of the FIR, the material placed on record, the rival submissions and the principles governing the exercise of jurisdiction under Section 482 of the Code of Criminal Procedure, this Court is of the considered view that the allegations contained in the FIR disclose a cognizable offence and involve factual matters requiring examination in accordance with law.

80. The defence set up by the petitioner rests upon his interpretation of the agreements, transactions, bank records and alleged repayments. Determination of the correctness of that defence would require an evaluative examination of the documents and transactions relied upon by the respective parties, which this Court cannot undertake in exercise of its inherent jurisdiction, particularly at the stage when the investigation is still in progress.

81. The petitioner has failed to demonstrate that the present case falls within any of the exceptional categories warranting interference under Section 482 of the Code of Criminal Procedure. No circumstance has been shown which would render the continuation of the investigation an abuse of the process of law or make interference necessary to secure the ends of justice.

82. On the contrary, the allegations require the investigating agency to examine the competing versions of the parties and the material relevant thereto. There is, therefore, no justification for permitting the interim order to continue and thereby obstructing the investigation from proceeding in accordance with law.

83. Accordingly, the present petition is dismissed. The interim order dated 27.03.2024, whereby further investigation in FIR No. 07/2024 registered at Police Station, Economic Offences Wing, Crime Branch, Jammu, was stayed, shall stand vacated. The investigating agency shall be at liberty to proceed with and conclude the investigation in accordance with law expeditiously.

84. It is, however, made clear that the observations made herein are confined strictly to the consideration of the petition under Section 482 of the Code of Criminal Procedure and shall not be construed as an expression of opinion on the merits of the allegations, the defence of the petitioner, or the evidentiary value of the material relied upon by either side. The investigating agency shall undertake the investigation independently, fairly and strictly in accordance with law.

(Wasim Sadiq Nargal)
Judge

<u>Jammu:</u>
29.08.2026
Vijay

Whether order is speaking: *Yes*
Whether order is reportable: *Yes*

OF JAMMU & KASHMIR AND LADAKH