

**Jaydeep Suryakant Gadkari And Anr vs The State Of Maharashtra And Anr  
on 1 October, 2026**

CNR No : HCBM010200572020

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

PRAMOD  
JAWARE

Date: 2026.10.07

CRIMINAL APPELLATE JURISDICTION

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CRIMINAL WRIT PETITION NO. 264 OF 2021

1. Jaideep Suryakant Gadkari  
Age 55 years, Occu.: Business
2. Mangesh Jaideep Gadkari  
Age 51 years, Occu.: Housewife  
Both having office at:  
M/s. Gadkari Builders & Associates  
1st Floor, Gadkari Complex,  
Mahalaxmi Road,  
Opp. Metal Box Factory,  
Deonar, Mumbai 400 088.

... Petitioners

Vs.

1. The State of Maharashtra  
(Vide C.R.No.5 of 2020 filed at  
Govandi Police Station)
2. Samir Thakkar  
Age - Adult,  
Occu.: Real Estate Broker/Financer  
R/o.204, A-Wing, Golfscape,  
Sion-Trombay Road,  
Near Diamond Garden,  
Chembur (East),  
Mumbai 400 071.

... Respondents

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Mr. Manoj Harit i/by Manoj Harit & Co., Advocate for the Petitioners.

Mr.Amol Phoujdar a/w Mr. Prathamesh Parker, Advocate for Respondent No.2.  
Mr. Sunny Punamiya i/by Adv. Kinnari Mehta for Intervener in  
IA(ST)/24879/2025, IA/1364/2026 and WP/264/2021.  
Mr.Abhijit P. Kulkarni a/w Mr. Gaurav Shehane, for Respondent-SRA.  
Smt. Megha Bajoria, APP for Respondent-State.

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CORAM : RANJITSINHA RAJA BHONSALE , J.  
RESERVED ON : 3rd JULY 2026.  
PRONOUNCED ON : 1st OCTOBER 2026.

JUDGMENT:

1. By the present petition filed under [Section 482](#) of the Code of Criminal Procedure (for short '[Cr.P.C.](#)') (now Section 528 of the Bhartiya Nagrik Suraksha Sanhita, 2023) and [Article 226](#) of the Constitution of India, the Petitioners seek to quash and set aside C.R. No. 5 of 2020 dated 7 th January 2020, registered with the Govandi Police Station under [Sections 420, 409](#) read with [Section 34](#) of the Indian Penal Code, 1860 (for short '[IPC](#)'), Sections 3, 4, and 5 of the Maharashtra Ownership Flats Act, 1964 (for short 'MOFA'). Sections 3, 4, and 5 of the of Maharashtra Protection of Interest of Depositors Act, 1999 (for short 'MPID') and [Sections 465, 467, 468, 471, 472](#) of the IPC have been subsequently added.
2. Heard Mr. Manoj Harit, Advocate for the Petitioners, Mr. Abhijit P. Kulkarni, Advocate for Respondent No. 2, and Smt. Megha Bajoria, learned APP for the Respondent-State. Heard Mr. Sunny Punamiya for Interveners.
3. The Interveners/flat purchaser victims have filed Intervention Applications, the details of which are as under: -
  - (i) Intervention Application No. 1364 of 2026 is filed by Mrs. Pallavi Otawkar, Mr. Amit Saxena and Mrs. Asavari Otawkar in respect of Flat Nos. 1002, 1001 and 703 2 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc respectively. The said Interveners contend that, they were allotted and sold Flat Nos. 1002, 1001 and 703 for a consideration of ₹55 lakhs each for Flat Nos. 1001 and 1002 and ₹54 lakhs for Flat Nos. 703. The Interveners have paid an amount of ₹25,51,965/- each for Flat Nos. 1001 and 1002 and ₹24,02,220/- has been paid against Flat No. 703.
  - (ii) Intervention Application No. 24879 of 2025 filed by Mr. Sachin Sandbhor in respect of Flat No. 1103. The said Intervener contends that, he was allotted and sold Flat No. 1103 for a consideration of ₹80 lakhs out of which he had paid ₹46 lakhs.
4. It is the case of the Interveners i.e. Pallavi Otawkar and Amit Saxena that, the Petitioners relied upon a false and fabricated plan. That, without the knowledge and/or consent, the Petitioners reduced the terrace area of their flats, revised plans, created new flats from the said carved-out area and re-allotted and/or resold to the said area as flats for valuable consideration to third parties. Part of the area (terrace) which has again been sold to a different person, i.e., Mr. Rao.
5. It is the contention of the Intervener Mr. Sachin Sandbhor that, the Petitioners have used false and forged document and delayed the possession. That, as of 1st October 2012, the Petitioners had the Commencement Certificate (CC) only till the 9 th floor, still on 9th September 3 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc 2010 allotment letter was issued to Respondent No.2 in respect of flats on the 11th floor. That, the malafide intentions of the Petitioners are clear from the fact that, the concerned Deputy Engineer MHADA in NM(L) 844/14 in Suit No. (L) No. 344 of 2014 has clearly stated that no detailed proposal with all necessary requirements/documents was submitted. This Affidavit is dated 8 th May 2014.
6. The Learned Advocate appearing for the Petitioners, raised objections as to the locus of the Interveners to object to the present petition and to the maintainability of the Intervention Applications. It was contended that, the Interveners do not have locus or any right to object to the present petition. The Interveners have filed independent proceedings before the Regulatory Authority.

7. On the other hand the learned Advocates appearing for the Interveners submitted that, they are victims of a well orchestrated fraud and have been cheated of their hard earned monies. In some cases, properties sold to them have been re-allotted or an area thereof has been carved out and re- allotted and sold to other third parties. In some cases, innocent third parties have been induced or mislead to purchase flats the area of which had already been allotted to the other allottees/buyers. That, the Interveners are victims, affected parties and required to be heard.

8. In this regard a useful reference may be made to the judgment of the Hon'ble Supreme Court in the case of Jagjeet Singh v. Ashish Mishra, 4 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc reported in (2022) 9 SCC 321 wherein the Hon'ble Supreme Court has observed that :-

"A. Victim's right to be heard

15. Until recently, criminal law had been viewed on a dimensional plane wherein the courts were required to adjudicate between the accused and the State. The "victim"-- the de facto sufferer of a crime had no participation in the adjudicatory process and was made to sit outside the Court as a mute spectator. However, with the recognition that the ethos of criminal justice dispensation to prevent and punish "crime"

had surreptitiously turned its back on the "victim", the jurisprudence with respect to the rights of victims to be heard and to participate in criminal proceedings began to positively evolve.

22. It cannot be gainsaid that the rights of a victim under the amended [CrPC](#) are substantive, enforceable, and are another facet of human rights. The victim's right, therefore, cannot be termed or construed restrictively like a brutum fulmen [Ed.:

The literal translation from the Latin approximates to "meaningless thunderbolt or lightning", and is used to convey the idea of an "empty threat" or something which is ineffective]. We reiterate that these rights are totally independent, incomparable, and are not accessory or auxiliary to those of the State under the [CrPC](#). The presence of "State" in the proceedings, therefore, does not tantamount to according a hearing to a "victim" of the crime.

23. A "victim" within the meaning of [CrPC](#) cannot be asked to await the commencement of trial for asserting his/her right to participate in the proceedings. He/She has a legally vested right to be heard at every step post the occurrence of an offence. Such a "victim" has unbridled participatory rights from the stage of investigation till the culmination of the proceedings in an appeal or revision. We may hasten to clarify that "victim" and "complainant/informant" are two distinct connotations in criminal jurisprudence. It is not always necessary that the complainant/informant is also a "victim", for even a stranger to the act of crime can be an "informant", and similarly, a "victim" need not be the complainant or informant of a felony."

9. I have considered the objections and the submissions of the 5 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc parties. I am of the considered view that the Interveners in Interim Application No. 1364 of 2026, being victims, have a right to be heard. They are affected parties and have been wronged. The statements of the Interveners and other victims have been recorded as witness statements.

10. As regards the Intervener in Interim Application No. 24879 of 2025, it appears that the said person is the flat purchaser of Flat No.1103 (area carved out of Penthouse Flat Nos. 1101 and 1102 on the 11 th and 12th floor). Area carved-out of Penthouse Flat Nos. 1101 and 1102, allotted to Respondent No.2 has been sold to him for valuable consideration. The Petitioners have relied upon false and fabricated plans. The Intervener also seems to be a victim of the acts of the Petitioners. Considering the facts of the case, it would be in the interest of justice and necessary to hear the victims and balance the competing rights of the parties. Further, it is also pertinent to note that, a victim and/or affected party can in any event be heard through the public prosecutor or can assist the public prosecutor. In view of the aforementioned judgment of the Hon'ble Supreme Court in the case of [Jagjeet Singh vs. Ashish Mishra \(Supra\)](#), and in the interest of justice, I am inclined to allow the Interveners to be represented and heard. The Petitioners, in their turn will get an opportunity to be heard, reply to, and deal with the arguments advanced on behalf of the Interveners.

11. The case, as alleged in the FIR, is as under: -

11.1. It is alleged by the Original Complainant/Respondent No.2 that, 6 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc in the year 2010, through his friend Mr. Vithal Otawkar, Respondent No. 2 met the Petitioners at the Petitioners' office at Govandi, Mumbai. That, the Petitioners showed Respondent No. 2 redevelopment plans of the site at Subhash Nagar, Road No. 13, Building No. 57, Chembur (East), Mumbai. A building named 'Srushti Enclave' was proposed to be constructed (said building). The said plan as allegedly shown to Respondent No.2 housed penthouses on the 11th and 12th floor i.e. Flat Nos. 1101 and 1102. Pertinent to note that, the plan as shown to Respondent No.2 did not have/contain any reference to Flat No. 1103.

11.2. That, after perusal of and based on the said plan, Respondent No.2 liked and approved the penthouse flats on the 11 th and 12th floors i.e Flat Nos. 1101 and 1102 in the said building. That, the said penthouse flats covered and consumed the entire floor area of the 11 th and 12th floors, which was approximately 5,442.9 sq. ft. That, the Petitioners quoted a price for the said two penthouse flats i.e entire 11 th and 12th floors, at ₹4,22,00,000/-.

Respondent No.2 handed over two cheques bearing Nos. 566627 and 566628, dated 26th August 2010, for ₹11,00,000/- each, drawn in the name of Gadkari Builders and Associates. Respondent No.2 further handed over two cheques dated 9th September 2010, drawn on Canara Bank, bearing Nos. 568351 and 568352, each for an amount of ₹50,00,000/-, drawn in the name of Gadkari Builders and Associates.

11.3. After making a payment of ₹1,22,00,000/- to Gadkari Builders 7 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc and Associates, Petitioners issued an allotment letter dated 9 th September 2010 in respect of the two Penthouse Flat Nos.1101 and 1102 on the 11 th and 12th floors. As per the allotment letter, each penthouse flat admeasured 1,365.84 sq. ft. and had an attached terrace admeasuring 1,355.61 sq. ft. As per the allotment letter, possession of the said two penthouse flats was assured to be given within 24 months from the date of the CC. The said plan as was shown at the time of booking/approval was annexed to the allotment letter. 11.4. Respondent No.2 between the period from 26 th August 2010 to 8th May 2011, paid a total amount of ₹3,77,00,000/- (out of the agreed consideration of ₹4,22,00,000/- ) in the following manner: -

| SR.<br>No. | Date       | Cheque No. | Amount      |
|------------|------------|------------|-------------|
| 1          | 26/08/2010 | 566627     | 11,00,000   |
| 2          | 26/08/2010 | 566628     | 11,00,000   |
| 3          | 09/09/2010 | 568351     | 50,00,000   |
| 4          | 09/09/2010 | 568352     | 50,00,000   |
| 5          | 08/11/2010 | 568377     | 12,50,000   |
| 6          | 08/11/2010 | 568378     | 12,50,000   |
| 7          | 22/01/2011 | 599356     | 50,00,000   |
| 8          | 22/01/2011 | 599357     | 50,00,000   |
| 9          | 18/03/2011 | 599385     | 40,00,000   |
| 10         | 19/03/2011 | 599386     | 40,00,000   |
| 11         | 08/05/2011 | 599392     | 50,00,000   |
| Total      |            |            | 3,77,00,000 |

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11.5. Respondent No.2, in June 2011, allegedly requested the Petitioners to execute the sale deed, which the Petitioners at the first instance assured would be executed shortly. The construction activities/work of the said building was very slow and till the year 2012, had not been completed. Respondent No.2 followed up with the Petitioners and requested for the execution of the sale deed and completion of the work. The Petitioners neither executed the sale deed nor completed the work. Respondent No.2 did not receive possession of the said two penthouses till the year 2014. Respondent No.2 filed Civil Suit No.887 of 2014 before this Court, inter alia, praying for specific performance of the said agreement.

11.6. On making inquiries with the Assistant Sub-Registrar, Kurla, Respondent No.2 learnt that, the Petitioners had sold Flat No.1103, admeasuring 751.97 sq. ft., situated on the 11 th floor of the said building to Mr. Sachin Sandbhor, the Intervener in Intervention Application No.24879 of 2025, for an amount of ₹80,00,000/- and that the agreement dated 15 th March 2013 in respect thereof was registered.

11.7. According to the allotment letter dated 9 th September 2010 and the plan annexed thereto, the 11 th and 12th floors, admeasuring 5,442.9 sq. ft., in the said Building housed only 2 penthouse flats, both of which had already been allotted and sold to Respondent No.2, for which an amount of ₹3,77,00,000/- had already been paid to the Petitioners between the period 26th August 2010 to 8th May 2011. That, in the plan which was shown and 9 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc based on which representations were made to Respondent No.2, there was no Flat No.1103 in existence. The plan for the 11 th and 12th floors comprised only of Penthouse Flat No.1101 and Penthouse Flat No.1102. The area from the penthouse flats allotted and sold to Respondent No.2 was carved out, and once again sold to Mr. Sachin Sandbhor. That, Flat No.1103 was carved out of the areas of Penthouse Flat Nos. 1101 and 1102. The said flat was not on the plan, as annexed to the allotment letter and was created without the knowledge and/or consent of Respondent No.2. Based on these facts, the present FIR came to be filed.

12. Mr Manoj Harit, learned Advocate appearing for the Petitioners submitted that:-

12.1. The Respondent No.2 was an investor who had invested/financed the construction of the building and was not a genuine flat purchaser. That, a purely civil dispute is converted into and pursued as a criminal prosecution.

That, in substance the dispute is a money and performance dispute. That, a Civil Suit No 887 of 2014 has already been filed by Respondent No.2 seeking specific performance. No criminal offence is made out, much less the offences as alleged.

12.2. The construction of the building is lawful and under duly sanctioned plans. That, by a Development Agreement dated 28 th May 2010 the Petitioners were permitted to redevelop the property. That, on 11 th August 2010, the Intimation of Disapproval (IOD) was issued and the plan was 10 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc sanctioned upto the 3rd floor i.e. basement + stilt + 1 to 3 rd floor. That, on 23rd February 2012 CC was granted upto 9 th floor (part). That, on 1st October 2012 CC was granted till the 9th floor. That, on 15th July 2024 amended plan was sanctioned till the 16th floor. CC was granted on 25 th July 2024. That, the entire chain of sanction is validated by the sanctioning authority. The construction is lawful and legal.

12.3. Initially the FIR was registered under [section 409, 420](#) read with [section 34](#) of the IPC and [Sections 3, 4 and 5](#) of the MOFA. Subsequently, on 24th February 2022 [section 3,4 and 5](#) of the MPID Act and the offence of forgery have been erroneously added. That, Respondent No.2 has filed multiple proceedings both civil and criminal in respect of the same transaction. That, the malafides of Respondent No.2 are writ large. The Petitioners case is squarely covered under categories 1,3 and 7 of the categories laid down by the Hon'ble Supreme Court in the case of [State of Haryana vs Bhajan Lal](#) 1992 Supp (1) SCC 335.

12.4. The parties have entered into consent terms which had been recorded in the order dated 11th October 2024 passed in the Contempt Petition No. 20 of 2016 initiated in the civil suit. That, the Consent Terms could not be complied with due to circumstances beyond the control of the Petitioners i.e the non-availability of the Occupation Certificate. That, based on the Consent Terms, the Petitioners were granted Anticipatory Bail. Respondent No.2 had also consented for quashing the criminal proceedings. 11 Uploaded on - - Downloaded on - 07/10/2026 21:38:31

Supriya WP-264-2021.doc 12.5. That, the material on record does not disclose any of the offences as alleged. The ingredients as required to make out the alleged offences are clearly absent and missing. The transaction between Respondent No.2 and the Petitioners was a commercial transaction of investment and financing the construction project. It was not a transaction of a purchase of a flat. Therefore, no offence of cheating or criminal breach of trust can be made out. There is no dishonest inducement at the inception since the flats have been constructed. That, a sum received as a contractual consideration cannot be termed as an entrustment of property as is required under [Section 409](#) of the IPC.

12.6. No offence of forgery can be made out as the charge is based on a photocopy of a plan annexed to a third party registered agreement. A building plan is not a valuable security. The fraudulent intent is clearly absent. 12.7. No offences under the [MPID Act](#) and or MOFA are made out. The ingredients required to invoke the provisions of the MPID are clearly absent. That, there is no scheme involving public collection of money. Money paid by a flat purchaser to a builder cannot be constituted as a deposit as is envisaged under the [MPID Act](#). The only grievance and issue is the non-receipt of the Occupation Certificate. The Construction is completed. 12.8. The pleadings of Respondent No.2 clearly indicate that, Respondent No.2 was aware that the sanction at the relevant time was only till the third floor.

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13. Mr Amol Phoujdar, the learned Advocate appearing for Respondent No.2 submitted that: -

13.1. The facts of the case clearly make out a prima facie case against the Petitioners. The Petitioners at the inception have made misleading representations and relied on false and fabricated plan and thereby dishonestly induced Respondent No.2 to part with substantial amount of monies. This was done right at the inception. That, the Petitioners have after accepting huge amount of money from Respondent No. 2 proceeded to allot and resell a part of the area allotted to the Petitioners to another third-party purchaser i.e. Sachin Sandbhor. That, the offences as alleged are therefore clearly made out.

13.2. The provisions of the [MPID Act](#) are clearly applicable to the facts of the case and have been rightly invoked. Reliance was placed on the judgement of this Hon'ble Court in the case of Manohar Bhimraoji Mahale & others V/s State of Maharashtra & others reported in 2020 SCC OnLine Bom 368, to submit that the exceptions mentioned in the definition of 'Deposit' are not applicable to flat purchase transactions. That, Respondent No.2 has paid an aggregate amount of ₹3,77,00,000/- to the Petitioners towards the two Penthouse Flat Nos. 1101 and 1102 in the said building. 13.3. The Petitioners have accepted money, knowing fully well that the Petitioners did not have the requisite sanctions and permissions to carry on construction of the said building till the 11 th and 12th floor when the money 13 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc was taken. That, the plan as shown to Respondent No. 2 was a false and fabricated plan. That, after accepting the money, the Petitioners have unilaterally revised plans without the knowledge and/or consent of Respondent No. 2 and re-allotted and resold a part of the area of the same flats allotted to Respondent No. 2 to a different person. 13.4. The Petitioners have not complied with the consent terms dated 11th October 2024. The Petitioners had failed to complete construction,

obtain full Occupation Certificate and put Respondent No.2 in possession on or before 30th November 2025 as was required by the Consent Terms. Even though the Petitioners were aware that, the 15 th floor of the said building is allocated for the purposes of Gymnasium and Health Center, they assured allotment of penthouses to Respondent No.2 on the 15 th and 16th floor of the said building. This assurance was given in contempt proceedings. The mala fide intentions and objectives of the Petitioners are clear made out. That, the conduct of the Petitioners disentitles them from claiming any discretionary relief of quashing. Even otherwise the offences as alleged in the FIR are clearly made out.

13.5. By order of this Court dated 9th May 2014, the Petitioners were restrained from creating any third party rights in respect of Flat Nos. 1101 and 1102 of the said building. The Petitioners had in fact already created 3 rd party rights in respect of the said flats as early as 31st December 2012. The said fact was suppressed from this Court. The Petitioners did not point out the correct 14 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc facts and thereby misled this Court. This conduct clearly indicates the mala fide and dishonest intentions of the Petitioners. A Contempt Petition has been initiated. This conduct also disentitles the Petitioners from seeking discretionary relief.

13.6. Various other FIRs are registered against the Petitioners, which indicate that the Petitioners have antecedents and are habitual offenders. The details are as follows: I) FIR No. 64 of 2012, is registered on 20 th March 2012 with the Govandi Police Station for offence punishable under [section 448, 447, 143, 146, 506, 142](#) of the IPC. II) FIR No. 124 of 2016, is registered on 2nd July 2016 with the Govandi Police Station for offences punishable under section 406, 420, 467, 468, 471, 472 read with section 120(B) and [section 34](#) of the IPC. III) FIR No. 301 of 2012 is registered on 30 th December 2017 with the Govandi Police Station for offence punishable under [section 420](#) of the IPC. IV) MECR No. 07 of 2017 is registered on 16 th November 2017 with the RCF Police Station for offence punishable under section 420, 406 read with 34 of the [IPC](#) and under [section 4, 5](#) and [6](#) of the MOFA.

14. Ms. Megha Bajoria, Learned APP appearing for the State, submitted that: -

14.1. As regards Respondent No.2, the allotment letter was issued on 9th September 2010 in respect of Penthouse Flat Nos. 1101 and 1102. That, an area/portion was carved out of the area of the said penthouse flats and flat Nos. 1103 and 1104 were created. Flat No. 1103 as created was sold to Mr. 15 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc Sandbhor on 31st December, 2012. That, the same area was sold to two different individuals, namely Respondent No. 2 and Mr. Sandbhor. 14.2. This Court has issued a Contempt Notice to the Petitioners as the Petitioners had made a false statement on oath. The Petitioners had created third party rights in respect of a portion of the area of Flat Nos. 1101 and 1102. This was done in the face of the order of injunction dated 9 th May 2014 wherein the Petitioners were restrained by an order of injunction from selling, disposing, eliminating or encumbering, parting with possession and/or creating any third party rights in respect of Flat Nos. 1101 and 1102. The Petitioners suppressed from this court that, the Petitioners had already created third party rights as early as 31st December 2012.

14.3. The Petitioners at the inception represented to Respondent No.2 that, the plans had been sanctioned upto the 12 th floor and that the penthouse flats were approved. Based on the said representations, Respondent No. 2 was induced to part with an amount of ₹3,77,00,000/-. That, as of 19 th January 2011, the Petitioners had received CC upto the third floor only. That, the Petitioners showed the same forged plan to Respondent No. 2 and also to Mrs. Pallavi Otawkar and Mr. Amit Saxena. That, as of 8 th May 2011 the Petitioners received an amount of ₹3,77,00,000/- from Respondent No. 2. That, as of 23 rd February 2012, the Petitioners had received the CC upto the 3 rd upper floor only. The CC till the 9th floor was issued only on 18th August 2016. 14.4. In all there are 8 victims/flat purchasers as of 30 th November 16 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc 2020 and the said victims/flat purchasers have paid to the Petitioners a total amount of ₹7,39,19,294/-. The statements of the victims have been recorded and have formed part of the investigation papers. Based on such witness statements the provisions of [Section 3, 4](#) and [5](#) of MPID Act have been invoked.

14.5. By letter dated 7th July 2022, the Asst. Engineer, Building Proposal Department, Vikhroli has informed the Investigation Officer that the plan in question (which was shown by the Petitioners to Respondent No.2) was not issued by the Corporation, as it does not bear the signature of the competent authority. Based on the said information on 12 th July 2022 [Sections 464, 467, 468, 471](#) and [472](#) of the IPC have been added. A clear prima facie case of forgery is made out.

14.6. A clear case for the offences as alleged has been made out. It prima facie appears that the Petitioners have used a forged non existing plan and induced Respondent No.2 to part with substantial amount of monies. That same area has been sold to multiple parties. The same forged and fabricated plan was shown to Mrs. Otawkar and Mr. Amit Saxena, whose witness statements have been recorded. Investigation is required to be carried out to ascertain as to how the plan came into existence.

14.7. The arguments of the Petitioners are in the nature of their defences. The Petitioners will have an opportunity at the trial to raise all their defences. Prima facie case as alleged against the Petitioners is clearly made 17 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc out. Considering the facts of the present case, this Court ought not to exercise the powers under [Section 482](#) of the Criminal Procedure Code to quash the proceedings.

15. Mr. Sunny Punamiya, learned Advocate for Intervenors submitted that:-

15.1. The Petitioners, on 20th April 2011 had also entered into agreements for sale of flats with Mr. Amit Saxena and Mrs. Pallavi Otawkar.

The said agreements were about purchase of two flats (entire 10 th floor) on the 10th floor, having number 1001 and 1002. The same plan as shown to Respondent No. 2 was also shown to Mrs. Pallavi Otawkar and Mr. Amit Saxena. The said plan showed Flat Nos.1001 and 1002 as terrace flats which occupied the entire 10th Floor. The Petitioners unilaterally carved out an area off the terraces attached to Flat Nos. 1001 and 1002 i.e. 1503.94 sq. ft. from the said flats, created Flat Nos. 1003 and 1004, each admeasuring 751.97 sq. ft. Out the said flats, Flat No. 1003 was sold to Mr. Rao in the year 2014. That, the actions of the Petitioners were unilateral actions taken without taking consent or even informing the original flat purchasers. That, monies were taken from the said original flat purchasers. That, when the flats were sold, the sanctioned plans in respect of the said flats were not in place. On 20 th May 2016 the agreement with Mr. Rao was cancelled.

15.2. The intervention of Interveners in this Writ Petition is necessary. The Petitioner No. 1 is seeking to quash the criminal proceedings. Settlement 18 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc attempts were made only with the Complainant (Respondent no. 2), i.e. one victim. As the Interveners are also the victims of the alleged offence, they would be left without any effective criminal remedy against the Petitioners if the FIR is quashed, resulting in a grave miscarriage of justice. The statements of the victims have been recorded as witnesses, and therefore, multiple FIRs are not filed.

15.3. The Interveners have later discovered that, the Petitioners increased the number of flats on the 10 th floor from two to four without their consent and/or knowledge. Monies have been accepted based on misrepresentations. That, dishonest and malafide inducements were made at the very inception by relying on a false and fabricated plan. 15.4. The Petitioners did not have the permission to construct above nine floors when the Petitioners approached the Otawkar family to buy three flats, out of which two flats on the 10th floor had an open terrace attached to each of them.

15.5. The Petitioners kept them in the dark and dishonestly constructed Flats Nos. 1003 and 1004 on the area allotted as open terrace for Flats Nos. 1001 and 1002. Flat No. 1003 was sold to Mr. Lekhraj Rao in the year 2014. This act of double allotment clearly establishes the Petitioners' intent to cheat and misappropriate the Interveners' property and funds. 15.6. The Intervener, Mr. Sandbhor, purchased a flat measuring 751.97 sq. ft. The flat was numbered 1103. A registered agreement dated 15 th March 19 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc 2013 was signed by Mr. Sandbhor regarding flat numbers 1103. Subsequently, he discovered that the area on which the flat number 1103 is constructed was already sold to Respondent No. 2 in the year 2010 as part of Penthouse Flat Nos. 1101 and 1102. That, monies were already accepted from Respondent No.2 and also from Mr. Sachin Sandbhor.

16. Mr. Manoj Harit, the learned Advocate appearing for the Petitioners, in rejoinder arguments submitted that:

16.1. The Interveners and their complaints are not part of the FIR. The said intervener had filed independent proceedings before the regulatory Authorities and, therefore, did not have any locus to oppose the present quashing petition.

16.2. The prosecution has been initiated by misleading the police machinery, with a purely civil dispute being converted into a criminal prosecution. There is no case of entrustment made out. Even otherwise, none of the offences alleged by Respondent No. 2 and/or the Interveners have been made out against the Petitioners. It was reiterated that the case of the Petitioners fits into Categories 1, 3 and 7 mentioned in the judgment of [State of Haryana Vs. Bhajan Lal](#) (supra).

16.3. Relying on paragraph 22 of the judgment of [C.S. Prasad Vs. C. Satyakumar](#), reported in 2026 SCC OnLine SC 50, it was submitted that the High Court cannot conduct a mini-trial or evaluate the evidence in detail while exercising its powers under [Section 482](#) of the CrPC. 20 Uploaded on - - Downloaded on - 07/10/2026 21:38:31

Supriya WP-264-2021.doc 16.4. To sum up the arguments, it is the case of the Petitioners that a purely commercial contract of financing/investment has been misrepresented, converted and camouflaged into a criminal prosecution, with an objective to pressurize the Petitioners to give into the illegal and unjust demands. That, the construction undertaken by the Petitioners is legal and as per valid sanctioned plans. That, as Respondent No.2 has already taken recourse to filing civil proceedings/remedies, therefore, the criminal actions are not maintainable and are required to be quashed and set aside. That, the Consent Terms have been entered into, which could not be complied with by the Petitioners as the Occupation Certificate is awaited. 16.5. On the other hand, Respondent No.2 and the learned advocates appearing for the Interveners submitted that, the Petitioners had shown false, fabricated and non existing plan so as to induce Respondent No.2 in agreeing to purchase the penthouses and part with an aggregate amount of ₹3,77,00,000/-. Similar misrepresentation and false inducements were made to other flat purchasers, i.e., Mrs. Pallavi Otawkar and Mr. Amit Saxena. That, a part of the area of the flats allotted and sold to Respondent No.2 was re-

allotted and sold for the second time to a third party without the knowledge and consent of Respondent No.2. This was done after accepting substantial amounts from Respondent No.2 towards the said penthouse flats. That, there are other similarly placed flat purchasers. That, even after accepting substantial amounts, the Petitioners have not complied with the provisions of 21 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc the MOFA Act and thereof Sections 3, 4 and 5 of the MOFA Act have been invoked. That, there are 8 victims from whom a total amount of ₹7,39,19,294/- has been received, and there has been a

fraudulent default. Therefore, the provisions of the [MPID Act](#) have been invoked. The offences as alleged are serious and grave offences and are clearly made out. That, it is a part of the record that, the concerned authority has itself informed the Investigating Officer that, the plan as relied upon by the Petitioners is not issued by the Competent Authority as it does not have the signature of the Competent Authority. The Petitioner No. 1 has made false statement on oath, mislead this Court and also failed to comply with the terms and conditions of the Consent Terms. A prima facie case is clearly made out against the Petitioners and therefore this Court ought not interfere with the criminal proceedings.

17. Learned Advocate for the Petitioners placed reliance on the following Judgments: -

17.1. The judgments of the Hon'ble Supreme Court in the case [State of Haryana Vs. Bhajan Lal \(Supra\)](#), [Neeharika Infrastructure \(P\) Ltd. Vs. State of Maharashtra](#) reported in (2021) 19 SCC 401, [Zandu Pharmaceutical Works Ltd. Vs. Mohd. Sharaful Haque And Anr.](#), reported in (2005) 1 SCC 122, [Paramjeet Batra v. State of Uttarakhand.](#), reported in (2013) 11 SCC 673 to contend that, the inherent power under [Section 482](#) of the Cr.P.C. ought to be exercise according to the settled principles. The Court must exercise self 22 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc restrain and follow the establish legal parameters. The power should be exercised cautiously and sparingly only to meet the twin conditions i.e. to prevent the abused of judicial process or to secure the ends of justice. 17.2. The Judgments in the case of [G Sagar Suri Vs. State of U. P.](#) reported in (2000) 2 SCC 636, [Mohd. Ibrahim Vs. State of Bihar](#) reported in (2009) 8 SCC 751 and [Shailesh Kumar Singh Vs. State of U. P.](#) reported in 2025 SCC OnLine SC 1462 to contend that purely civil disputes should not be permitted to be converted into criminal prosecution/offences so as to harass the citizens. The Criminal prosecution should not serve as shortcut for legal remedies which are required to be pursued in the civil Courts.

17.3. The Judgments in the case of [Hridaya Ranjan Prasad Verma Vs. State of Bihar](#) reported in (2000) 4 SCC 168, [Vesa Holding \(P\) Ltd. Vs. State of Kerala](#) reported in (2015) 8 SCC 293, [Sarabjit Kaur Vs. State of Punjab](#) reported in (2023) 5 SCC 360 and [Thermax Ltd Vs. K. M. Johnny](#) reported in (2011) 13 SCC 412 to draw a distinction between mere breach of contract and offence of cheating. It was submitted that, to make out an offence of cheating the fraudulent and dishonest intention has to be as the very beginning. The inducement has to be at the inception.

17.4. The Judgment in the case of [Velji Raghavji Patel Vs. State of Maharashtra](#) reported in AIR 1965 SC 1433 to submit that, to establish the offence of criminal breach of trust it is required to be shown the property is entrusted.

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Supriya WP-264-2021.doc 17.5. The Judgment in the case of [Sheila Sebastian Vs. R. Jawaharaj](#) reported in (2018) 7 SCC 581, [Jupally Lakshmikantha Reddy Vs. State of Andhra Pradesh](#) reported in 2025 INSC 1096 to submit that, for an offence of forgery it is necessary that, the condition of making of false document which necessitated the conscious act of creation or signing by maker is required to be prove. In the absence of dishonest intention, the forgery cannot be proved. 17.6. In the case of [Delhi Race Club \(1940\) Ltd. V. State of U.P.](#) reported in (2024) 10 SCC 690 to submit that, the complaint cannot simultaneously alleged criminal breach of trust and cheating.

17.7. It was submitted on behalf of the Petitioners that, the present proceedings is a vexatious criminal complaint, camouflaging allegations which were ex facie outrageous or pure civil claims, and held that such attempts are not to be entertained and ought to be dismissed at the threshold.

18. Perused the entire record. In the present case the FIR, at the first instance was filed under Section 420, 409 read with [Section 34](#) of the IPC and Sections 3, 4, and 5 of the MOFA Act. [Sections 3,4](#) and [5](#) of the MPID Act and [Sections 465, 467, 468, 471](#) and [472](#) of the IPC have been subsequently added. This was after and based on the letter dated 7 th July 2022 issued by the Asst. Engineer, Building Proposal Department, Vikhroli informing the Investigating Officer that, the plan in question which was relied upon by the Petitioners to offer inducement to Respondent No. 2 and Mrs. Pallavi Otawkar and Mr. Amit Saxena, was not issued by the Corporation as there was no 24 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc signature of the competent authority.

19. Perusal of the FIR indicates that, the Petitioners agreed to sell to Respondent No.2 two penthouse flats situated on the 11 th and 12th floors, totally admeasuring, 5,442.9 sq. ft., in aggregate along with a terrace area admeasuring 1655.65 sq. ft. for each of the penthouse flats. The total consideration agreed was ₹4,22,00,000/-, out of which Respondent No.2 has admittedly paid a sum of ₹3,77,00,000/- during the period from 26 th August 2010 to 8th May 2011. Though, the amount was paid, no agreement has been executed. It is the contention of Respondent No. 2 that, the plan shown to Respondent No.2 was not genuine but a false and fabricated plan. That, a portion of the area sold to Respondent No. 2 was in fact re-allotted and sold for the second time over to a third party i.e. Mr. Sachin Sandbhor who is also a victim of the fraud.

20. A perusal of the allotment letter dated 9 th September 2010 issued by the Petitioners indicates that, Respondent No.2 was allotted Penthouse flats/Residential Unit Nos. 1101 and 1102, each comprising of a three- bedroom, a hall and a kitchen (3 BHK) penthouse, admeasuring 1,365.84 sq. ft. carpet area, together with a terrace admeasuring 1,355.61 sq. ft. for each penthouse. A floor plan showing Flat Nos.1101 and 1102 as penthouse flats was annexed to the said allotment letter. The allotment letter further provided that, possession of the penthouse flats would be delivered to Respondent No.2 within a period of 24 calendar months from the date of grant

of the 25 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc Commencement Certificate. I have noted that, the allegations of forgery and fabrication of false document are in respect of the same plan which was shown to Respondent No.2 at the time of allotting the flats and which was annexed to the allotment letter. This is the same plan, which is said to have been shown to, the Respondent No.2 and Mr. Amit Saxena and Mrs. Pallavi Otawkar and which, offered the inducement at the inception while booking the flats. The Petitioners have shown the same plan i.e. plan attached to Respondent No. 2 allotment letter dated September 2010, to Respondent No.2 and the purchasers of Flat No. 1001 and 1002 i.e. Mr. Amit Saxena and Mrs. Pallavi Otawkar by annexing it to their agreement. In the said plan, Flat No. 1101 and 1102 are depicted to be and shown as penthouse flats. Further in the said plan, Flat Nos. 1001 and 1002 are shown and depicted as terrace flats. There were supposed to be only two flats on the 10th floor.

21. In this regard, it would be necessary to refer to the letter dated 12th July 2022 of the Investigating Officer wherein a reference is made to the letter dated 7th July 2022 issued by the Asst. Engineer, Building Proposal Department, Vikhroli, which indicates that, the said plan in question was not issued by the Corporation, as it does not bear the signature of the competent authority. Considering the said letter, in my opinion it therefore prima facie appears that, the said plan is a false and fabricated document. It is on the basis of this letter and plan; the offence of forgery came to be added in the present case. It is the case of the prosecution that, it is on the basis of this plan 26 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc the initial representations and inducements were made, property sold and substantial amount of monies were accepted. The concerned floors i.e. 10, 11 and 12 floors were subsequently unilaterally redesigned, plan made and the terrace areas used and converted into flats and resold. Prima facie the acts of cheating and forgery are clearly made out.

22. A perusal of the record further indicates that, approximately 1/4 th of the area originally allotted to Respondent No. 2 was subsequently allotted and re-sold to Mr. Sachin Sandbhor in the form of Flat No.1103. This was done by the Petitioners, without any prior notice or specific intimation being given to Respondent No.2 at the time of such allotment. The record indicates that, as of July 2012, the sanctioned plans did not permit construction till the 11th floor. Despite this, the Petitioners also entered into an agreement with Mr. Sandbhor on 31st December 2012, pursuant to which a sum of ₹46,00,000/- was received. Pertinent to note here that, as against the Allotment letter dated 9th September 2010 given to the Respondent No. 2, the Petitioners accepted ₹3,77,00,000/- in respect of Flat Nos. 1101 and 1102. The area of Flat Nos. 1103 and 1104 was carved-out of Flat Nos. 1101 and 1102 for which money was already accepted. The record indicates that, when the Petitioners have accepted monies for sale of flats on the 11 th and 12th floor as early as August 2009, there was no CC received yet. The first CC was received on 11 th August 2010 permitting construction till the plinth. The CC upto the 16 th floor has been granted on 25th July 2024.

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23. The record indicates that, as on the date of the allotment letter dated 9th September 2010, and even as on 18th August 2016, the sanctioned plans for the said building were approved only up to the 9 th floor. The proposed 11th and 12th floors had not even been sanctioned. From the record, it appears that, the Petitioners implemented the same modus operandi in respect of Flat Nos. 1001 and 1002 which were sold to Mr. Amit Saxena and Mrs. Pallavi Otawkar. Even in this transaction the same fabricated plan is used. The said plan is infact annexed to the agreement of Mr. Amit Saxena and Mrs. Pallavi Otawkar. Furthermore, as of 18th August 2016 (when sanctioned plans were only till the 9 th Floor), the Petitioners had already created rights in respect of Flat Nos. 1001 to 1003 and 1101, 1102 and taken substantial amount of monies from the purchasers. Further, the Petitioners then unilaterally acting contrary to the agreements made new plans, created flats out of allotted terrace area and resold the said area. This was done after accepting the monies/deposits, as per the understanding/agreements. The monies, which were entrusted to the Petitioners. The acts and conduct of the Petitioners was contrary to the terms of the agreement or the allotment letter or the entrustment. I have noted that the case of the prosecution is that there are 8 victims who have fallen prey to the alleged fraud/fraudulent design. The facts of each of the victims' case differ to some extent. In my opinion the offence under [Section 409](#) of the IPC is prima facie made out.

24. The record indicates that, out of the area comprising Flat Nos. 28 Uploaded on - - Downloaded on - 07/10/2026 21:38:31

Supriya WP-264-2021.doc 1101 and 1102 on the 11 th and 12th floors, which had been allotted to Respondent No.2, the Petitioners, without informing the Respondent No.2, carved out a portion of the area i.e. 751.97 sq. ft. originally allotted to Respondent No.2, and re-sold/made a double sale of the area in the form of Flat No. 1103 to Mr. Sachin Sandbhor under a registered agreement dated 31 st December 2012, for a consideration of ₹80,00,000/- of which ₹46,00,000/- had been received. At the time the said Flat No.1103 was sold, the approved building plan had been sanctioned only up to the 9 th floor. Further, for the same said carved out area which formed a part of the 2 Penthouse Flats Nos. 1101 and 1102, the Petitioners had already accepted a substantial consideration of ₹3,77,00,000/- as of 8th May 2011. The plan relied upon by the Respondent No.2 is alleged to be a false and fabricated document. The said conduct of the Petitioners, prima facie makes out the dishonest intentions of the Petitioners, at the inception itself. Considering the said conduct, it can be said that a prima facie case for the offences as alleged in the FIR including cheating is clearly made out.

25. A perusal of the RTI reply letter issued by the Municipal Corporation dated 12th March 2020 indicates that, the first CC was granted on 11th August 2010, permitting construction up to the 3 rd floor. Thereafter, on 23rd February 2012, a further CC was granted from basement to 3 rd floor. By this time, the Petitioners had accepted ₹3,77,00,000/- from the Respondent No. 2 for

Penthouse Flat Nos. 1101 and 1102. Further, agreements to sell 29 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc dated 20th April 2011 were executed with Mr. Amit Saxena and Mrs. Pallavi Otawkar for terrace Flats bearing Nos. 1001 and 1002. The Flat Nos. 1003 and 1004 have been carved out of the terrace flats Nos. 1001 and 1002. This was done without informing Mr. Amit Saxena and Mrs. Pallavi Otawkar who had already executed agreement to sell in respect of terrace Flats bearing Nos 1001 and 1002 and paid substantial amounts. Similarly, Mr. Rao was sold Flat No. 1003 by agreement dated 8 th November 2014, when the CC was granted only till the 9th floor. Subsequently, pursuant to the revised plans being sanctioned on 21st July 2012, a CC was issued permitting construction from the 1st to the 8th floors and 9th floor in part. Thereafter, under the revised plans approved on 13th April 2016, a further CC was issued on 18 th August 2016 permitting construction from the 1st to the 13th floors.

26. The Petitioners have allotted, executed sale agreements, received substantial amounts in respect of flats for which permission/CC had not been revised or sanctioned. After receiving monies, the plans have been unilaterally revised, areas carved-out of flats which had been sold/encumbered flats and resold to third party innocent buyers. The Petitioners have by employing their aforesaid modus/plan to prima facie cheated innocent flat purchasers. The intentions of the Petitioners are clearly made out.

27. For the ease of understanding the manner in which the Petitioners have gone about selling/allotting flats and re-allotting certain areas in the said flats, the following table may be seen: -

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| Name            | Flat No.   | Date of Agreement | C. C.         | Floor Permitted till | Amount paid   | Period of payment             |
|-----------------|------------|-------------------|---------------|----------------------|---------------|-------------------------------|
| Samir Thakkar   | 1101, 1102 | 9th Sept 2010     | 11th Aug 2010 | Upto the plinth      | ₹ 3.77 crores | 26th Aug 2010- 8th May 2011   |
| Pallavi Otawkar | 1002       | 20th Apr 2011     | 23rd Feb 2012 | Upto 3rd floor       | ₹ 25 lakhs    | Till 28th Sept 2012           |
| Amit Saxena     | 1001       | 20th Apr 2011     | 23rd Feb 2012 | Upto 3rd floor       | ₹ 25 lakhs    | Till 28th Sept 2012           |
| Asavari Otawkar | 703        | 20th Apr 2011     | 23rd Feb 2012 | Upto 3rd floor       | ₹ 24 lakhs    | Till 28th Sept 2012           |
| Sachin Sandbhor | 1103       | 31st Dec 2012     | 1st Oct 2012  | Upto 9th floor       | ₹ 46 lakhs    | 31st Dec 2012- 31st Jan 2013  |
| Lekhraj Rao     | 1003       | 8th Nov 2014      | 1st Oct 2012  | Upto 9th floor       | ₹ 92 lakhs    | 9th Aug 2014- 14th March 2015 |

28. An argument was advanced on behalf of the Petitioners that no offence under the [MPID Act](#) is made out as [section 3](#) of the MPID Act as there is no fraudulent default and the provisions of the [MPID Act](#) cannot be invoked in the facts of present case. A useful reference can be made to the judgment of this Court in Manohar Bhimji Mahalle and others vs. State of Maharashtra (Supra), which is applicable to the facts of this Case. In paragraph 20, this Court specifically held that monies advanced to builders do fall within the ambit of the [MPID Act](#). Considering the facts of the present case and the 31 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc conduct of the Petitioners at this stage it is clear that a prima facie case has been made out under the [MPID Act](#). Paragraph 20 of the judgment in the case of Manohar Bhimji Mahalle and others Vs. State of Maharashtra (supra) reads as under: -

"20. [The MPID Act](#) was enacted to protect the interest of depositors in the Financial Establishments and matters relating thereto. The term "Deposit" as defined in [Section 2\(c\)](#) of the MPID Act inter alia includes any receipt of money by any "Financial Establishment" to be returned after a specified period or otherwise either in cash or in kind or in the form of specified service with or without any benefit in the form of interest, bonus, profit or in any other form. Thus, what is contemplated is receipt of money by the "Financial Establishment" and return of the same in any other form. In the present case, about 514 flat purchasers have paid substantial amounts to the "Financial Establishment" as "Financial Establishment"

agreed to hand over to them possession of the flats to be constructed on the same plots. Thus, it is clear that the purchase of flats by flat purchasers from the "Financial Establishment" and for that purpose payment of money to the "Financial Establishment" by flat purchasers is covered under the definition of the term "Deposit" under [MPID Act](#). The exceptions mentioned in the definition of "Deposit" are not applicable to such purchase of flats by flat purchasers from "Financial Establishment". It is also to be noted that neither the appellants nor any of the respondents contended that money advanced by the flat purchasers to said M/s. Rana Landmark Pvt. Ltd. is not deposit as per [MPID Act](#) and only argument was that the title of the property has not transferred to M/s Rana Landmark Pvt. Ltd. and that the same is not the absolute property of said M/s. Rana Landmark Pvt. Ltd. and therefore, [Section 4](#) of the MPID Act is not applicable. We have already discussed in detail this aspect and held that the said property comes within the purview of [Section 4](#) of the MPID Act."

29. Ms. Megha Bajoria, the learned Public Prosecutor, during the course of arguments submitted that, Flat No. 404 was sold to Mr. Shrikrishna Kulkarni (whose statement has been recorded as a witness) under an agreement/allotment letter dated 3rd April 2011 for a consideration of ₹56,00,000/-. It was submitted that, possession of the said flat has not been handed over to the allottee nor did the plans shown to the said allottee correspond with the sanctioned plans and require verification from the record and investigation. Similarly, Flat No. 902 was sold to Mr. D. Tambalwadkar under an agreement dated 23rd February 2013 for a consideration of ₹84,00,000/-, which amount has been received by the Applicant. It was submitted that, possession of the said flat has not been handed over nor does it correspond with the sanctioned plans and the plans shown to the purchaser require verification with reference to the sanctioned plans and the records of the Municipal Corporation and investigation.

30. The learned APP appearing for the State, on instructions further submitted that, in the present case there are in all 8 victims/flat purchasers, as of 30th November 2020, who have paid to the Petitioner a total amount of ₹7,39,19,294/-. The statement of the victims have been recorded as witness statements in the present FIR. The record indicates that, in some cases, the flats have been allotted/sold without there being valid permissions/sanctions at the relevant time when money was accepted. In some cases, some area carved out of allotted and sold flats has been re-allotted and re-sold to third parties. In some cases, flats have been allotted/sold, monies accepted and possession is not granted. In my considered view, upon taking into consideration the facts and circumstances of the matter, it prima facie appears 33 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc that the offences as alleged against the Petitioners are clearly made out. In my opinion, what the Petitioners have raised are all their defences, which can be effectively considered at the trial, when the Petitioners will also get an opportunity to defend the allegations and put forth their case. Considering the facts of the present matter, I am of the considered opinion that a prima facie case on facts is made out against the Petitioner for the offences as alleged in the FIR. No case is made out for quashing the criminal prosecution. I am of the view that, the allegations made clearly make out a prima facie case and the Petitioners case is not covered by any of the categories as mentioned in paragraph 102 of the judgment of the Hon'ble Supreme Court in the case of [State of Haryana Vs. Bhajan Lal](#) (supra).

31. Relief under [Section 482](#) of CrPC and [Article 226](#) of the Constitution of India is a discretionary relief. It is well settled that, a person seeking discretionary relief ought to conduct himself in a just, proper and fair manner. The Hon'ble Supreme Court in the case of [Padal Venkata Rama Reddy v. Kovvuri Satyanarayana Reddy](#), reported in (2011) 12 SCC 437 has observed that:

"11. Though the High Court has inherent power and its scope is very wide, it is a rule of practice that it will only be exercised in exceptional cases. Section 482 is a sort of reminder to the High Courts that they are not merely courts of law, but also courts of justice and possess inherent powers to remove injustice. The inherent power of the High Court is an inalienable attribute of the position it holds with respect to the courts subordinate to it. These powers are partly administrative and partly judicial. They are necessarily judicial when they are exercisable with respect to a judicial order and for securing the ends of justice. The 34 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc jurisdiction under Section 482 is discretionary, therefore the High Court may refuse to exercise the discretion if a party has not approached it with clean hands."

32. In the background of the aforementioned observations of the Hon'ble Supreme Court, it is necessary to consider the conduct of the Petitioners. By an order dated 9th May 2014, passed in contempt proceedings this Court had directed the Petitioners not to create any third-party rights in respect of Flat Nos. 1101 and 1102. The relevant portion of the said order dated 9th May 2014 reads as under: -

"1. ....

2. The Defendants are restrained by an order of injunction from selling, disposing off, alienating, encumbering, parting with possession and / or creating third party rights in respect of premises agreed to be sold by the Defendants to the Plaintiff by an allotment letter dated 9th September, 2010.

3 to 5. ...."

33. Pertinent to note that, when the Order was passed the Petitioners were represented by an advocate. The Petitioners had already created third party rights in respect of an area (terrace) which formed part of Flat Nos. 1101 and 1102. The Petitioners had carved out an area of 751.97 sq. ft. and created flat No. 1103, which had already been sold to Mr. Sachin Sandbhor on 31st December 2012 and the agreement in respect thereof was registered on 15th March 2013. This was all done much before the order dated 9th May 2014. This fact, though to the knowledge of the Petitioners, has been clearly suppressed from this Court at the time of passing the order dated 9th May 35 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc 2014. In Contempt proceedings initiated

against the Petitioners, this Court issued notice to the Petitioners. This Court in the Order dated 31 st October 2018 has observed that the Petitioners had made a false statement on oath before this Court.

34. I have also noted that, the Petitioners vide consent terms dated 11th October 2024 executed between Respondent No. 2 and Petitioners, represented that, they would allot to Respondent No. 2, penthouse flats on the 15th and 16th floors of the building. On record is a brochure/advertisement of the Petitioners which prima facie indicates that, the 15 th floor of the building is allocated to and scheduled to house the A. C. gymnasium and Health Center of the society, available to all the members of the society. The said conduct of the Petitioners prima facie indicates the intentions of the Petitioners to deceive and cheat Respondent No. 2. The Petitioners prima facie appear to have made incorrect or misleading statements before this court. Further under the consent terms the Petitioners were to obtain the Occupation Certificate of the Building by December 2025. The same is not complied with. As the Petitioners has not complied with the Consent Terms, a second contempt notice has been issued by this Court on 28th April 2026 and the same is pending. In my considered opinion, the conduct of the Petitioners and their intentions to say the least, are questionable. It appears from the conduct of the Petitioners that, the Petitioners have no regard to the law, this Court and/or the orders passed by this Court.

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35. It was vehemently argued on the behalf of the Petitioners that, a pure civil dispute has been given the colour of a criminal offence and has been converted into a criminal prosecution to pressurize the Petitioners and avoid making the balance payments. On a very serious note, an argument was advanced that, at the highest, the allegations may constitute only a breach of contract or breach of contractual obligations and that, the present proceedings are a malicious prosecution initiated with a view to malign the reputation of the Petitioners. It was submitted that, the construction is completed and the only remaining compliance is the Occupation Certificate. The record would indicate that, this plea that the Occupation Certificate is awaited is been taken since a long time. Non-receipt of the Occupation Certificate or delay in receiving the Occupation Certificates whether can be construed as a valid defence to be raised will ultimately depend on the facts of each case, on the compliances made and the conduct of the parties. In the present case considering the conduct of the Petitioners, the documents and material on record, in my considered opinion the same cannot be raised in the facts of the present case. It raised, the same is to be rejected on an outright basis. It cannot be permitted that a party conducts itself in a most inappropriate manner, has serious allegations of criminal offences against it, flouts court orders, misleads the Court, has contempt notices issued against it and raises a defence that the Occupation Certificate is awaited. In my opinion this is one more instance which reflects the intention of the Petitioners. The argument 37 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc there is made only to seek time as done in the past and is to be rejected.

36. In my opinion, the aforesaid submission is made only to be rejected. At the cost of some repetition, the record indicates that, the Petitioners has dealt with, allotted and sold flats/units which in the first instance when sold were not sanctioned as per the plan at the relevant time when monies are accepted. Substantial amount of monies have been accepted contrary to the provisions of the law. The sanctioned plans were then unilaterally revised by the Petitioners without knowledge and or consent of the original allottees/purchasers and the flats/areas sold to them were carved out and sold to different parties in respect of which monies were again accepted. The same area was sold to multiple persons. In my considered view this conduct of the Petitioners prima facie makes out the offences as alleged and for which prosecution is launched. Apart from alleging malafides and vexatious prosecution, the Petitioners have not been able to point out or demonstrate any instances which would help terming the prosecution as malafide. In this background facts, to contend that there exist only civil contractual disputes, or malafides or that no criminal offences are made out is a argument of convenience made to delay the prosecution and made only to be rejected.

37. I have also noted that, the Respondent No.2 at the first instance invoked the available civil remedy and had reserved his rights to initiate criminal proceedings. In the civil proceedings i.e., the Civil Suit orders dated 38 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc 9th May 2014 and 5th August 2014 came to be passed. The record further indicates that, flat purchasers have also filed RERA proceedings to enforce their respective rights. It prima facie appears that, only when the complete facts emerged and came to the fore that Respondent No.2 has initiated criminal proceedings. The contention of the Petitioners that, because civil proceedings have been initiated and the flat purchasers have approached the RERA authorities, the present criminal proceedings are not maintainable, in my opinion, is nothing but an argument of convenience and liable to be rejected. It is settled law that, on the same set of facts, a party may very well initiate both civil and criminal proceedings simultaneously or at different points in time. In doing so, the requirement of law is that, the proceedings, whether civil or criminal, must be independently established, and the facts must prima facie disclose the commission of a criminal offence or be indicative of the criminal intents and criminalities.

38. I have also noted that, the petitioners having entered into Consent Terms with the Respondent no. 2, but did not comply with their obligations thereunder on the basis that, the occupation certificate is awaited. Pertinent to note that, the consent terms are entered in contempt proceedings. The contempt proceedings pertain to suppression of vital facts to the knowledge of the Petitioners where the Petitioners did not point out the fact that they had already created third party rights in respect of the property for which injunction/protective order was passed. Even, the said Consent Terms 39 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc have been violated and for which a second contempt proceeding is initiated. Entering into the consent terms is a voluntary and responsible act and more so when done in a Court proceeding. The parties entering into the consent terms

are well aware of the solemn duties, obligations and responsibilities they undertake to fulfill under the Consent Terms. The same are statements made by the Court, based on which statement and assertions the Court passes certain orders and to an extent changes or alters the course of the proceedings. The decisions are well thought through. Further, false statements on oath have been made before this Court.

39. From the facts, it prima facie appears that Respondent No. 2, being induced on a false and fabricated plan, paid a sum of ₹3,77,00,000/- during the period from September 2010 to May 2011. Even after receipt of the said amount, the plan as shown had not been approved, and the Commencement Certificate was issued only up to the 3<sup>rd</sup> floor as of 23<sup>rd</sup> February 2012. As per CC dated 1<sup>st</sup> October 2012, construction was permitted till the 9<sup>th</sup> floor. As per the terms of the allotment letter, possession was to be handed over within 24 months from the date of receipt of the Commencement Certificate. The same was not done. Instead the plan was unilaterally revised, area sold to Respondent No. 2 was carved out and Flat No. 1103 was created and the area was resold to Mr. Sachin Sandbhor. In my considered opinion the offence of cheating and other offences are prima facie made out. The argument of the Petitioners, all in the nature of his defences which can be 40 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc considered at the trial.

40. The Petitioners have contended that an amount of ₹ 3.46 crores is due and payable by the 8 buyers. In my opinion this contention is nothing by a belated attempt to raise a defence and project the dispute/ issues as a civil proceeding or a case of breach of contract. This contention is in fact contrary to the defence raised by the Petitioners that the monies were received as a investment/financing transaction as is contended in the case of the Respondent No. 2. I have also noted that, at least the record does not indicate that, the Petitioners has taken any steps to terminate the other agreements or any agreement or call upon the respective flat purchasers to pay the amounts. The conduct of the Petitioners clearly demonstrates the intention.

41. In the present case, considering the aforesaid facts, circumstances, and the documents on record, I am of the view that a prima facie case for the offences alleged is made out. The record indicates that, there are multiple flat purchasers who booked flats, paid substantial amounts, and have not received possession of their flats. Some flats have been created from areas already allotted and sold and have then been re-sold to third parties for valuable consideration. This is done, without the knowledge or consent of original allottee/flat purchaser. Monies have been taken on multiple occasions for flats for which there were no sanctioned plans. The record prima facie indicates that, agreements were executed and amounts were accepted without the requisite approvals having been obtained and based on a plan which was 41 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc forged and/or fabricated. In the peculiar facts of the present case, the essential ingredients required to constitute the offences alleged in the FIR are, prima facie, available. Given the aforesaid facts and circumstances, I am of the view that a prima facie case is made out against the Petitioners.

42. The learned advocate appearing for the Petitioners has relied upon various judgements of the Hon'ble Supreme Court and re-emphasised the well settled propositions of law. There can be no quarrel with the propositions of law as referred to by the Advocate appearing for the Petitioners. In my considered view, considering the facts of the present case, none of the authorities would be helpful to the Petitioners' case. I find that, in the facts of the present case, a prima facie case for the offences as alleged has been made. The matter pertains to the use of false and forged sanctioned plan, allotting and selling the same area to multiple buyers. This has happened multiple times. Most pertinently the authority itself has doubted the genuineness of the plan in question. The offence is that of forgery. It is a serious and grave offence.

43. The conduct of the Petitioners disentitles them from claiming any discretionary relief. In any event, in my considered view the fraudulent or dishonest intent of the Petitioners at the inception is prima facie made out. The act of initiating civil proceedings or availing a Civil remedy does not automatically bar criminal proceedings. The present FIR discloses the essential ingredients of the criminal offence alleged to have been committed. In the 42 Uploaded on - - Downloaded on - 07/10/2026 21:38:31 Supriya WP-264-2021.doc present case the facts prima facie establishes the intent, and the dishonest intention. The offences are prima facie made out. After considering the facts of the present case and the arguments advanced by the parties, I am of the considered opinion that the Petitioners has failed to make out any case, which would fit in any of the categories as enumerated by the Hon'ble Supreme Court in the case of [Bhajan Lal](#) (Supra). In fact, in my considered view the acts and conduct of the Petitioners prima facie disclose and make out the offences for which the Petitioners are charged.

44. Considering the facts and circumstances of the present case, no case is made out for the invocation of the inherent powers of this Court under [Section 482](#) of the Cr.P.C. to quash the proceedings.

45. In view of the above, no case is made out. The petition is dismissed.