Om Parkash vs State Of Punjab And Another on 13 November, 2026

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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1. CRM-M-22212-2024 (O&M)
Om Parkash ...Petitioner
Versus
State of Punjab and another ...Respondents

2. CRM-M-28798-2024 (O&M)
Rajinder Kaur ...Petitioner
Versus
State of Punjab and another ...Respondents

Date of decision : 13.11.2026

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA
Present:- Mr. Munish Puri, Advocate
for the petitioner in CRM-M-22212-2024;
for respondent No. 2 in CRM-M-28798-2024.

Mr. Onkar Singh Batalvi, Advocate with
Mr. Damanjeet Singh Batalvi, Advocate
for the petitioner in CRM-M-28798-2024 and
for respondent No.2 in CRM-M-22212-2024.

Ms. Ruchika Sabherwal, Senior DAG, Punjab.

MANISHA BATRA, J.(Oral)

1. By this common order, two petitions filed under Section 482 Cr.P.C. are being disposed of as petition CRM-M-22212-2024 seeks quashing of FIR No.26 dated 07.03.2024 registered against petitioner Om Parkash under Section 420 IPC and Section 36(3) of the Punjab Apartment and Property Regulation Act, 1995 (for short 'the Act') at Police Station MOHAMMAD WASEEM ANSARI 2026.11.13 10:51 I attest to the accuracy and integrity of this document CRM-M-22212-2024 (O&M) and one connected petition 2 Division No.2, District Pathankot (Annexure P-5), and petition CRM-M-28798-2024 seeks quashing of FIR No.31 dated 16.03.2024 registered against petitioner Rajinder Kaur under the same provisions at the same police station (Annexure P-1), along with all subsequent proceedings arising therefrom.

2. Brief facts of the case relevant for the purpose of disposal of these petitions are that both the aforementioned FIRs arise out of one dispute between the same parties over one plot. Om Parkash and his brothers Harbans Lal, Ramesh Lal and Rachhpal Singh had inherited land measuring 20 Kanals 3 Marlas comprised in Khasra Nos.926(8-9), 930(11-11) and 922/1(0-3), situated in the revenue estate of village Daulatpur, District Pathankot. On 04.05.2006, Harbans Lal and Ramesh Lal sold land measuring 4 Kanals 8 Marlas to Rajinder Kaur and Gurmeet Kaur in equal shares (Annexure P-1 in CRM-M-22212-2024). Rajinder Kaur appointed Ajay Pal Singh as her general power of attorney on 01.10.2020. Through him, she sold her share of 44 Marlas in the form of plots vide five sale deeds executed during the years 2020 and 2021. The last of these sale deeds was executed on 23.06.2021 in favour of her relative Rajesh Kumar, who is respondent No.2 in CRM-M- 22212-2024, for a plot measuring about 0-4¾ Marlas (Annexure

P-5 in CRM-M-28798-2024). On 06.06.2023, Om Parkash transferred land measuring 6.25 Marlas, being his 25/676 share in Khasra No.926, to his son Abhishek Singh through a transfer deed in blood relation (Annexure P-6 in CRM-M-22212-2024). The boundaries given in this deed are similar to those of the plot purchased by Rajesh Kumar.

MOHAMMAD WASEEM ANSARI 2026.11.13 10:51 I attest to the accuracy and integrity of this document CRM-M-22212-2024 (O&M) and one connected petition 3

3. A dispute arose between the two sides about this plot. On 27.09.2023, Abhishek Singh filed a suit for permanent injunction against Rajesh Kumar regarding the plot measuring 6.25 Marlas (Annexure P-3 in CRM-M-22212-2024). On 03.10.2023, Rajesh Kumar filed a suit against Om Parkash and Abhishek Singh (Annexure P-4 in CRM-M-22212-2024). In that suit, he has sought a declaration that he is owner in possession of the plot measuring 0-4.75 Marlas. He has also sought a declaration that the transfer deed dated 06.06.2023 is null and void. His case in the suit is that the remaining share of Om Parkash in Khasra No.926 stood consumed in the passages of the colony carved out by Om Parkash and his brothers. Both the suits are pending before the Court of learned Civil Judge (Senior Division), Pathankot.

4. Rajesh Kumar then approached this Court through CRM-M- 58340-2023, which was disposed of on 18.12.2023 with a direction to the Deputy Inspector General of Police, Border Range, Amritsar, to examine his representation and to take appropriate action, if warranted, in accordance with law. The Tehsildar, Pathankot, inspected the spot and reported on 07.02.2024 that the boundaries of the sale deed in favour of Rajesh Kumar and those of the transfer deed in favour of Abhishek Singh tally with each other (Annexure P-6 in CRM-M-28798-2024). The Deputy Superintendent of Police, City, Pathankot, initially reported on 09.02.2024 that the dispute was civil in nature and was pending before the civil court. On objections raised by the higher officers, the matter was examined by a Special Investigation Team, which observed in its report dated 06.03.2024 that Om Parkash had MOHAMMAD WASEEM ANSARI 2026.11.13 10:51 I attest to the accuracy and integrity of this document CRM-M-22212-2024 (O&M) and one connected petition 4 transferred land to his son by writing dimensions similar to those of the plot of Rajesh Kumar. It also observed that he had not left any land for streets and could not produce any approval for selling his land in the form of plots. On the basis of this report and the opinion of the Deputy District Attorney (Legal), FIR No.26 dated 07.03.2024 was registered against Om Parkash.

5. Om Parkash, on the other hand, had approached this Court through CRM-M-8542-2024, which was disposed of on 19.02.2024 with a direction to the Senior Superintendent of Police, Pathankot, to decide his representation by passing a speaking order. On enquiry, the Station House Officer and the Deputy Superintendent of Police, City, Pathankot, reported on 14.03.2024 that Rajinder Kaur, through her general power of attorney, had sold land measuring 44.06 Marlas in the form of plots during the years 2020 and 2021. As per this report, she had sold land measuring 0.06 Marla more than her share, and the plots were sold without any approval from the competent authority. After the opinion of the Deputy District Attorney (Legal), FIR No.31 dated 16.03.2024 was registered against Rajinder Kaur.

6. The prayer of Om Parkash for anticipatory bail was declined by the learned Additional Sessions Judge, Pathankot, on 13.03.2024. He was granted anticipatory bail by this Court on 10.04.2024 and he joined the investigation on 24.04.2024. After investigation, the challan against him was presented before the Illaqa Magistrate on 20.06.2026, and the case was fixed for 15.09.2026 for framing of charge. Rajinder Kaur was granted anticipatory bail by the learned Additional Sessions Judge, Pathankot, on 16.04.2024 and she joined the investigation on 19.04.2024. On 02.07.2024, this Court stayed MOHAMMAD WASEEM ANSARI 2026.11.13 10:51 I attest to the accuracy and integrity of this document CRM-M-22212-2024 (O&M) and one connected petition 5 further investigation in FIR No.31, and this interim order was extended thereafter from time to time.

7. Learned counsel for petitioner Om Parkash has argued that the petitioner never sold any land either to Rajinder Kaur or to Rajesh Kumar. The petitioner had only transferred his own share recorded in the jamabandi to his son. The dispute regarding the identity and possession of the plot is purely civil in nature and is already pending before the civil court. The Deputy Superintendent of Police, City, had himself found the matter to be civil but the FIR was later registered without dealing with his findings. The colony was not carved out by the petitioner and no permission of the competent authority was obtained before registration of the FIR. It is argued that the FIR has been lodged only to pressurise the petitioner during the pendency of the civil litigation. Hence, it is urged that the petition deserves to be allowed. To buttress his arguments learned counsel has relied upon the authorities cited as G. Sagar Suri v. State of U.P., (2000) 2 SCC 636 and Madan Lal and another v. State of Haryana and another, 2012(3) RCR (Criminal) 643.

8. Learned counsel for petitioner Rajinder Kaur has argued that the petitioner owned 44 Marlas of land and did not sell anything beyond her share. The area of the last plot was mentioned in the sale deed as about 0-4¾ Marlas, and the figure of 4.75 Marlas was only rounded off in the mutation. The petitioner is neither a promoter nor an estate agent. The colony was in fact carved out by Om Parkash and his brothers, from whom the petitioner had purchased agricultural land in the year 2006. Nobody has suffered any MOHAMMAD WASEEM ANSARI 2026.11.13 10:51 I attest to the accuracy and integrity of this document CRM-M-22212-2024 (O&M) and one connected petition 6 wrongful loss on account of the sale deeds executed by her. The impugned FIR has been got

registered by Om Parkash only to create pressure on the petitioner so that he could settle his dispute with her relative Rajesh Kumar. With these broad submissions, it is urged that the petition deserves to be allowed.

9. Separate replies have been filed. On the strength of the same, learned State counsel has opposed both the petitions. With regard to FIR No.26, it is argued that the FIR was registered after a detailed enquiry made in pursuance of the directions of this Court. During investigation, documents from the revenue department and other departments have come on record which show the involvement of Om Parkash in duping the complainant. The land transferred by him to his son is a rasta as per the revenue record and the challan has already been presented. With regard to FIR No.31, it is argued that Rajinder Kaur sold total land measuring 44.06 Marlas in the form of plots without seeking any approval from the competent authority.

10. Learned counsel for respondent No.2-Rajesh Kumar in CRM-M- 22212-2024 has argued that the allegations against Om Parkash are supported by documentary material. As per the report of the Tehsildar, the boundaries of the transfer deed dated 06.06.2023 tally with those of the sale deed dated 23.06.2021 in favour of the complainant. This raises triable questions which require evidence and cannot be decided in a petition under Section 482 Cr.P.C. Since the investigation stands completed and the challan has been presented, the petitioner can raise all his defences before the trial Court. Learned counsel for respondent No.2-Om Parkash in CRM-M-28798-2024 MOHAMMAD WASEEM ANSARI 2026.11.13 10:51 I attest to the accuracy and integrity of this document CRM-M-22212-2024 (O&M) and one connected petition 7 has supported FIR No.31. He has argued that Rajinder Kaur sold more land than her share in the form of plots without any approval and did not leave any land for the streets.

11. This Court has heard the rival submissions at considerable length, besides going through the material placed on record.

12. A perusal of the record shows that the two FIRs are cross-FIRs arising out of the same chain of transactions. The grievance of each side is that the deed executed by the other side covers land which it claims for itself. In both the FIRs, two kinds of allegations have been made. The first is the allegation of cheating, which is a private grievance concerning the plot in dispute. The second is the allegation of selling land in the form of plots without approval, which is a matter of statutory regulation under the Act. These two allegations stand on a different footing and are being considered separately.

13. Coming first to the offence under Section 420 IPC, the law on the point is no longer res integra. In Mohd. Ibrahim and others v. State of Bihar and another, (2009) 8 SCC 751, the Hon'ble Supreme Court held that where a person executes a sale deed of a property which does not belong to him, it is the purchaser, who is induced to part with the sale consideration, who may complain of having been cheated. A third person claiming title to the property, who was neither deceived nor induced to deliver any property, may not be able to make such a complaint merely because the sale deed affects his claim. Relying upon this judgment, the Hon'ble Supreme Court in Jit Vinayak Arolkar v. State of Goa and others, [2025] 1 S.C.R. 230 : 2025 MOHAMMAD WASEEM ANSARI 2026.11.13 10:51 I attest to the accuracy and integrity of this document CRM-M-22212-2024 (O&M) and one connected petition 8 INSC 31 quashed an FIR under Section 420 IPC which was lodged during the pendency of civil suits regarding the title of the same property. The relevant observations are reproduced as under:-

> "12. It is pertinent to note that the purchasers under the sale deeds have not made any grievance about the sale deeds. In the case of Mohd. Ibrahim v State of Bihar, in paragraphs 20 to 23, this Court held thus:
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> "20. When a sale deed is executed conveying a property claiming ownership thereto, it may be possible for the purchaser under such sale deed to allege that the vendor has cheated him by making a false representation of ownership and fraudulently induced him to part with the sale consideration. But in this case the complaint is not by the purchaser. On the other hand, the purchaser is made a co-accused.
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> xxx xxx xxx
>
> 23. ....If a person sells a property knowing that it does not belong to him, and thereby defrauds the person who purchased the property, the person defrauded, that is, the purchaser, may complain that the vendor committed the fraudulent act of cheating. But a third party who is not the purchaser under the deed may not be able to make such complaint."

12.1 In this case, it is impossible to understand how the appellant deceived the 4th respondent and how the act of execution of sale deeds by the appellant caused or was likely to cause damage or harm to the 4th respondent in body, mind, reputation or property. The appellant has not purported to execute the sale deeds on behalf of the 4th respondent. He has not purported to transfer the rights of the 4th respondent. There is no allegation that the appellant deceived the 4th respondent to transfer or deliver the subject property.

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13. Taking the complaint as correct, the offence of cheating under Section 415 of IPC was not made out against the appellant. Moreover, the complaint was filed by the 4th respondent for the first time after a time gap of two years from the date of institution

of the civil suits.....When there was a dispute over the title, the act of the 4th respondent of setting in motion criminal law two years after the date of filing of the suits amounts to nothing but abuse of the process of law."

14. Applying the abovementioned principles, the allegations in FIR No.26 do not make out the offence of cheating against Om Parkash. Rajesh Kumar is not a party to the transfer deed dated 06.06.2023. Om Parkash did not make any representation to him and did not receive any property from him. The only transferee under the deed is the son of Om Parkash, who paid no consideration and has no grievance against his father. The deed recites the 25/676 share of Om Parkash in Khasra No.926, which stood recorded in his name in the jamabandi for the year 2018-19 (Annexure P-2 in CRM-M- 22212-2024). Whether this share still exists at the spot or stands absorbed in the passages of the colony and which of the two deeds would prevail, are questions of title and possession. These are the very questions which Rajesh Kumar himself has raised in his civil suit filed on 03.10.2023, wherein he has sought a declaration that the transfer deed dated 06.06.2023 is null and void. The report of the Tehsildar only shows that the boundaries of the two deeds overlap. It does not by itself show any dishonest intention on the part of Om Parkash. The stand of the State that the transfer was made during the pendency of the civil suit is not borne out from the record, as the transfer deed dated 06.06.2023 was executed before the filing of both the suits. As MOHAMMAD WASEEM ANSARI 2026.11.13 10:51 I attest to the accuracy and integrity of this document CRM-M-22212-2024 (O&M) and one connected petition 10 held by the Hon'ble Supreme Court in Anand Kumar Mohatta and another v. State (Govt. of NCT of Delhi) and another, (2019) 11 SCC 706, the presentation of the challan does not denude this Court of its power to quash the proceedings, if no offence is made out.

15. The position is no different with regard to FIR No.31. Om Parkash is not a purchaser from Rajinder Kaur. None of the five vendees of Rajinder Kaur has made any complaint against her. Rajesh Kumar, the vendee under the sale deed dated 23.06.2021, rather supports her. Even otherwise, the allegation of sale of 0.06 Marla in excess of her share does not stand scrutiny. The sale deed dated 23.06.2021 conveys 444/40000 share of land measuring 20 Kanals in Khasra Nos.926 and 930, which comes to 0-4.44 Marlas, and 1/12 share of land measuring 0-3 Marlas in Khasra No.922/1, which comes to 0-0.25 Marla. Thus, the land actually conveyed is 4.69 Marlas, which has been described in the deed as about 0-4¾ Marlas. When the figure of 4.69 Marlas is taken into account, the five sale deeds of 1.68, 13.50, 12.13, 12 and 4.69 Marlas add up to exactly 44 Marlas. The alleged excess of 0.06 Marla, therefore, arises only because the area of the last plot was rounded off to 4.75 Marlas in the mutation, whereas the share actually conveyed works out to 4.69 Marlas. In any case, only a vendee could have complained about such an excess, as held in Mohd. Ibrahim's case (supra).

16. It is also noticeable that FIR No.26 and FIR No.31 were registered within nine days of each other, on parallel complaints made by the two sides while their civil suits about the same plot were pending. There is no allegation that either petitioner deceived the complainant concerned or MOHAMMAD WASEEM ANSARI 2026.11.13 10:51 I attest to the accuracy and integrity of this document CRM-M-22212-2024 (O&M) and one connected petition 11 induced him to deliver any property. The grievance on both sides relates only to competing claims over the same plot, which are already the subject matter of the civil suits. As held in G. Sagar Suri's case (supra), criminal proceedings are not a short cut to other remedies available in law and a matter which is essentially civil cannot be given the cloak of a criminal offence. Taking the allegations at their face value, the ingredients of Section 415 IPC are not made out against either of the petitioners. The case is covered by the first category of cases laid down in State of Haryana and others v. Bhajan Lal and others, 1992 Supp (1) SCC 335. Continuation of the proceedings under Section 420 IPC against either petitioner would, thus, be an abuse of the process of the Court.

17. However, the allegation regarding the offence under the Act stands on a different footing. It is not a private grievance of either complainant but relates to the development of land into a colony and sale of plots without approval. The relevant provisions of the Act read as under:-

> "2(i) "colony" means an area of land not less than one thousand square meters divided or proposed to be divided by way of registered sale or through lease or transfer of physical possession of plots or apartment building for residential, commercial or industrial purposes xxx *** 2(y) "promoter" means the person, -
>
> (a) who is the owner of land, on which a colony is developed; xxx xxx xxx
>
> (e) who claims to be acting as the holder of a power of attorney from the owner of the land on which the building is constructed or a colony is developed; xxx MOHAMMAD WASEEM ANSARI 2026.11.13 10:51 I attest to the accuracy and integrity of this document CRM-M-22212-2024 (O&M) and one connected petition 12 ***
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> 36. Offences and penalties. - (1) Any person or promoter or his agent registered under the Act, without reasonable cause, fails to comply with or contravenes the provisions of sections 3, 5, 6, 9 or 15 shall, on conviction, be punished with imprisonment for a minimum term of three years which may extend to seven years and with minimum fine of rupees two lac, which may extend to rupees five lac.

xxx xxx xxx (3) Any promoter or estate agent who, without reasonable excuse, fails to comply with, or contravenes, any other provision of this Act or of any rule made there under, or does not pay the penalty imposed upon him by the competent authority, shall, if no other penalty is expressly provided for the offence, be punished on conviction, with imprisonment for a term not less

than one year which may extend to three year and with a minimum fine of rupees ten thousand which may extend to rupees one lac.

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38. Prosecution and composition of offences. - (1) No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the competent authority or any person authorised in this behalf by the competent authority."

18. In both the FIRs, it is alleged that land comprised in Khasra Nos.926, 930 and 922/1 was sold in the form of plots without any approval from the competent authority and without leaving land for the streets. Prima facie, the total land in these khasra numbers measures 20 Kanals 3 Marlas, which is far more than one thousand square meters. Even the share of Rajinder Kaur, measuring 44 Marlas, exceeds this limit. The owner of the MOHAMMAD WASEEM ANSARI 2026.11.13 10:51 I attest to the accuracy and integrity of this document CRM-M-22212-2024 (O&M) and one connected petition 13 land on which a colony is developed, as well as the holder of a power of attorney from such owner, falls within the definition of a promoter. Each petitioner blames the other side for carving out the colony. This is a disputed question of fact which can be determined only on the basis of evidence. In State of Punjab and others v. Inder Mohan Chopra and others, [2009] 2 S.C.R. 400, the Hon'ble Supreme Court set aside the orders of this Court quashing an FIR registered under Section 36 of the Act, and held that such questions are to be adjudicated during trial. The relevant observations are as under:-

> "11. It appears that the High Court has come to an abrupt conclusion that the individual shares could be less than 1000 Sq.m. That is not the relevant aspect for consideration of the issues raised. Therefore, the impugned orders of the High Court are unsustainable and are quashed. We make it clear that we have not expressed any opinion on the merits of the cases which are to be adjudicated in trial."

19. In view of the law laid down in Inder Mohan Chopra's case (supra), the proceedings relating to the offence under the Act cannot be quashed at this stage in either case. At the same time, two aspects deserve to be noticed. Firstly, Section 36(3) of the Act applies only where no other penalty is expressly provided, whereas a contravention of Section 5 of the Act is punishable under Section 36(1) of the Act. The question as to the provision actually attracted on the allegations in the FIRs is left open to be examined in accordance with law at the appropriate stage. Secondly, Section 38(1) of the Act bars the institution of prosecution for any offence under the Act without the previous sanction of the competent authority. Such sanction MOHAMMAD WASEEM ANSARI 2026.11.13 10:51 I attest to the accuracy and integrity of this document CRM-M-22212-2024 (O&M) and one connected petition 14 is thus a condition precedent for the institution of prosecution. It does not bar the registration of an FIR or its investigation, but a report under Section 173 Cr.P.C. cannot be acted upon for the offence under the Act without such sanction. The reply filed by the State in CRM-M-22212-2024 is silent as to whether any such sanction was obtained before presentation of the challan. This Court, therefore, refrains from recording any finding on this aspect, which shall be examined by the trial Court on the basis of the record.

20. In view of the above discussion, both the petitions are partly allowed in the following terms:-

> (i) In petition bearing CRM-M-22212-2024, FIR No.26 dated 07.03.2024 registered under Section 420 IPC and Section 36(3) of the Act at Police Station Division No.2, District Pathankot, along with the report under Section 173 Cr.P.C. and all subsequent proceedings, is quashed qua the offence under Section 420 IPC. The learned trial Court shall proceed in the matter in accordance with law. It shall be open to the petitioner to raise all his pleas, including those relating to sanction, the applicable provision and limitation, before the trial Court at the appropriate stage.

(ii) In petition bearing CRM-M-28798-2024, FIR No.31 dated 16.03.2024 registered under Section 420 IPC and Section 36(3) of the Act at Police Station Division No.2, District Pathankot, along with all subsequent proceedings, is quashed qua the MOHAMMAD WASEEM ANSARI 2026.11.13 10:51 I attest to the accuracy and integrity of this document CRM-M-22212-2024 (O&M) and one connected petition 15 offence under Section 420 IPC. The interim order dated 02.07.2024 staying further investigation stands vacated.

21. It is made clear that nothing observed herein shall be construed as an expression of opinion on the merits of the civil suits pending between the parties or on the merits of the allegations regarding the offence under the Act. CRM-31192-2026 in CRM-M-22212-2024, being an application seeking stay of the proceedings before the trial Court, is disposed of as having been rendered infructuous. Pending miscellaneous application(s), if any, also stand disposed of. A photocopy of this order be placed on the file of the connected case.

13.11.2026 (MANISHA BATRA)
Waseem R. Ansari JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No

MOHAMMAD WASEEM ANSARI
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