

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

CP No. D- 1516 of 2025

[Muhammad Subhan and others v. Province of Sindh & Others]

BEFORE:

JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE RIAZAT ALI SAHAR

Mr. Bisharat Ali Memon, Advocate for Petitioners
Mr. Rafiq Ahmed Dahri, Asstt: A.G.

Date of hearing:
& Decision: 16.12.2025

ORDER

ADNAN-UL-KARIM MEMON, J. - The Petitioners, through instant Petition, have prayed as under:-

- a. This Honourable Court may be pleased to quash the FIR bearing crime No.03 of 2025 U/S 417, 420, 468, 469, 471, 477-A, 34 PPC R/W Section 5(2) of Act-II of 1947 lodged at Police Station ACE Hyderabad against the petitioners being false and fabricated one "Or" in alternate direct the IO of the case to expunge the names of the petitioners from the FIR/case as they have no concern with the previous alleged fraud, being acted bonafidely for purchasing the subject property through registered sale deed which is most solemn and trustworthy mode of acquisition of proprietary rights.
- b. Interim orders solicited whereby suspending the proceedings of crime No.03 of 2025 till the final decision of the petition.
- c. Any other relief(s) which this Honourable Court deems fit, just and proper in favour of the petitioners.
- d. Costs of the petition be saddled upon the respondents

2. The case of the petitioners, as narrated by him, is that property bearing CS No.2681, admeasuring 132-07 sq. yards, Ward "A", Hyderabad (the subject property), was originally jointly owned by Nanki Bai and Ramchand. Ramchand relinquished his share in favour of Nanki Bai through Relinquishment Deed No. 3318 dated 18 October 2004, making her the sole owner. Nanki Bai passed away on 10.05.2021, leaving behind her daughter, Sheela as her only legal heir. A Foti Khata Badal entry in her favour was made on 01.04.2024. However, at the belated stage the respondent No.2 lodged FIR No. 3 of 2025 at Police Station ACE Hyderabad without showing the date of occurrence of the alleged offence and continued to investigate the said crime which triggered the cause to the Petitioner to assail the legality of the

FIR No. 3 of 2025 registered for offence under Sections 417, 420, 468, 469, 471, 477-A, 34 PPC r/w Section 5(2) of the Act II of 1947, before this Court.

3. Learned counsel for the petitioner submitted that Shr. Sheela, through her attorney Ms. Gulfishan, sold the subject property to Khadim Hussain vide registered sale deed dated 30.10.2024, whereupon his name was entered in the Record of Rights on 09.12.2024. Subsequently, Khadim Hussain sold the subject property to petitioners No.1 & 2 through registered sale deed dated 17.12.2024 with possession. Learned counsel submitted that the Petitioners applied for mutation on 03.01.2025, but the Mukhtiarkar rejected the application on the report of City Surveyor, stating that the Foti Khata Badal entry dated 01.04.2024 had been cancelled vide order dated 31.05.2024 passed by ADC-I Hyderabad, restoring the name of Nanki Bai, and that the matter was sub-judice in FIR No.03 of 2025 registered by Anti-Corruption Establishment. He further submitted that upon obtaining the record on 25.06.2025, petitioners came to know that the said appeal and FIR were fraudulently instituted by the purported attorney of deceased Nanki Bai, namely Prem Hiranand Chugani, even though Nanki Bai had passed away in 2021 as per the NADRA-issued death certificate. The appeal was filed by treating Nanki Bai as alive based on false and fabricated documents, including a dubious CNIC, fake foreign addresses, and without the production of any passport. He submitted that Shr. Sheela also submitted an oath statement with an incorrect CNIC number, indicating collusion to commit fraud. The petitioners, upon learning these facts, filed an application under Section 12(2) CPC read with Section 8 of the Board of Revenue Act, 1957, before the competent authority, which case is pending adjudication. It is urged that Petitioners No.1 & 2 are bona fide purchasers for value, having acquired the property through a registered sale deed after due verification. Petitioners No.3 & 4 are merely marginal witnesses. The petitioners did not know about any alleged fraud, nor any nexus with prior disputed transactions. The FIR does not disclose any act, mens rea, or criminal conspiracy attributable to the petitioners. It is submitted that the dispute relates purely to title and revenue entries, which are civil in nature; as such, the petitioners cannot be held vicariously liable for alleged acts of previous owners, if any. It is submitted that their implication in the FIR is malicious, intended to harass and exert pressure. The FIR is also highly delayed, lacking date and time, rendering it doubtful and tainted with malicious intentions. It is further submitted that continuation of criminal proceedings against the petitioners amounts to abuse of the process of law and causes irreparable harm to them. In view of the above facts, it is urged that no offence is made out against the present petitioners on the face of the FIR, and this Court is empowered to quash the FIR / proceedings against them. The petitioners, therefore, pray for acceptance of the instant petition.

4. The learned AAG submitted that the instant petition is not maintainable and has been filed at a premature investigation stage. The investigation of Crime

No.03/2025 is still pending, and until completion of the statutory process under Sections 154 and 173 Cr.P.C., no petition for quashment is legally sustainable. It is submitted that once an FIR discloses a cognizable offence, the investigating agency is duty-bound to conduct an investigation and collect evidence. He submitted that interference at this initial stage would amount to curtailing due process of law and depriving the complainant of a fair investigation. The extraordinary jurisdiction under Section 561-A Cr.P.C. and / or Article 199 of the Constitution is to be exercised sparingly and only in exceptional cases of patent illegality or mala fide, which the petitioners have failed to establish. The FIR is neither absurd nor inherently false. He submitted that the grounds raised by the petitioner involve disputed questions of fact which cannot be adjudicated without completion of investigation and are to be examined during trial or through remedies such as bail, discharge, or acquittal, not by quashment at the inception. The petition is further not maintainable as the petitioners have an alternate efficacious remedy under Section 249-A Cr.P.C. before the trial court, which has been bypassed. It is further stated that the FIR was registered with the approval of the competent authority, ACC-II, pursuant to an enquiry into Complaint No.01/2025, conveyed vide letter dated 17.07.2025. Learned AAG lastly prayed for dismissal of the petition as non-maintainable, premature, and contrary to law.

5. We have heard the learned counsel for the parties and perused the record with their assistance.

6. It appears from the record that Petitioners No.1 & 2 purchased the subject property through a registered sale deed, after mutation in favour of their vendor, with possession, and without notice of any alleged fraud or dispute. A registered sale deed carries a presumption of legality, and a bona fide purchaser for value without notice cannot be presumed to have criminal intent merely due to later-alleged defects in prior revenue entries which has been portrayed to have been obtained through fraudulent means which factum can only be ascertained during investigation and the Magistrate is competent to look into the investigation report and he can agree or disagree with such investigation report.

7. The FIR alleges cheating, forgery, and criminal conspiracy; however, prima facie none of the essential ingredients of mens rea, active participation, or collusion are attributed to the present petitioners. Prima facie, there is no allegation that they forged any document, influenced revenue officials, or knew about any illegal mutation at the time of purchase. Mere receipt of benefit does not constitute criminal liability without proof of knowledge and participation. However, the investigation may continue, but the petitioners' liability must be established through cogent and concrete material as discussed supra before the competent court. Only if the court finds sufficient material can their culpability be adjudicated. Prima facie, the

contention that the petitioners are “beneficiaries” of an allegedly wrongful mutation is untenable at this stage, as no material has been collected during investigation since its inception to that effect despite sufficient time. Erroneous or illegal acts of revenue officials, in the absence of connivance, do not criminalize subsequent purchasers and may at best give rise to civil or revenue consequences, not criminal prosecution. Prima facie, the dispute relates to title and revenue entries, including the validity of Foti Khata Badal, which is already sub judice and remediable under civil and revenue law.

8. It is settled law that criminal proceedings cannot be used to settle civil disputes. However, it is for the trial court to see whether the FIR discloses role, mens rea, or overt act attributable to the petitioners, who have been labelled as merely bona fide purchasers through registered instruments.

9. In view of the above facts, the allegations prima facie indicate civil or revenue irregularities by prior parties or officials. The continuation of criminal proceedings against the petitioners shall be examined by the trial court upon submission of the final investigation report, after requiring the Investigating Officer to substantiate any prima facie involvement of the petitioners with cogent / concrete material and after hearing the parties. Any misconduct on the part of the Investigating Officer shall also be examined by the competent authority / Chairman ACE. The Chairman ACE shall assign the case to a competent and honest officer to further investigate the matter and submit his report to the competent court of law within one month.

10. This petition stands disposed of in the above terms.

Let a copy of this order be communicated to the Chairman, ACE for information and compliance.

JUDGE

JUDGE