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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Order: 2nd July , 2010

CrI. M.C 2103/2010

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Ronald Griffin

Through: Mr. Amit Chadha with Mr. K.B. Mehta, Advocates

02.07.2010

... Petitioner

Versus

The State & Ors.

Through:

...Respondents

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

ORAL

1. This petition under Section 482 Cr.P.C has been made by the petitioner for quashing FIR No.132 of 2010 dated 9th June, 2010 under Section 420/468/471/120-B IPC registered as Police Station C.R. Park, New Delhi on the ground that the FIR was against law and facts and that the complainant had not lodged the present FIR with clean hands and concealed and suppressed the material facts that an application under Section 156(3) Cr.P.C had already been dismissed by the Court of MM, Patiala House Courts holding that the dispute was primarily of a civil nature. Despite that, the Court of MM granted an opportunity to complainant to lead pre-summoning evidence. It is submitted that no offence under Section 420,468 and 471 IPC was made out, the complaint/FIR therefore should be quashed.

2. On perusal of the documents on record, it transpires that the accused had admittedly taken a sum of Rs.10 lac against a receipt from the complainant promising to

sell a property to the complainant and executed a receipt on 15th September 2008. There was no clause in the receipt of forfeiture of this amount. It was also agreed upon that the balance consideration shall be paid within 15 days. The total consideration was not mentioned in the receipt but it was stated that the parties shall honour the agreement already entered into on 2nd June, 2007 between the attorney of the accused and the complainant. It would be seen from the documents that a sum of Rs.33 lac was in all received from the complainant, Rs.10 lac by this accused and Rs.23 lac by his attorney namely Om Prakash Dholakiya. However, when despite receipt of the consideration amount neither the property was handed over nor the title deeds were executed, the complainant learnt that accused was only a tenant in the premises and he was not owner of the premises. When the amount paid to him was demanded back, he refused to repay the amount. However, the attorney who had received Rs.23 lac paid the amount back to the complainant but the petitioner did not repay the amount.

3. It is apparent from the entire documents that the accused had malafide intentions from the very beginning and forged documents of ownership as he wanted to cheat the complainant of huge amount. A document annexed as **Annexure-A-12** filed by the petitioner shows that a settlement for payment of the amount between the accused (petitioner herein) and the complainant had taken place in presence of his attorney Mr. O.P. Dhalokiya and as per this settlement, the accused has agreed to return a sum of Rs.15 lac to the complainant. He issued a cheque of Rs.15 lac to the complainant of Indian Bank, Hauz Khas and gave an undertaking that this cheque shall not be dishonoured. This agreement was also not honoured by the accused. The cheque issued by the accused was not honoured by the bank and accused instead of making payment as agreed, has approached this Court for quashing the FIR.

4. The plea taken by the petitioner/accused that it was a matter of civil nature and a

suit has been filed by the complainant for recovery of the amount does not hold ground. It is settled law that the criminal action and civil action both can be initiated against a person on the basis of transaction and merely because a civil action has been initiated, the criminal action does not get barred and it cannot be a ground for quashing an FIR. From the document and facts, I find that prima facie the accused had dishonest intentions from the very beginning. He without being the owner of the property received huge money from the complainant assuring him that he was the owner of the property and would transfer the property but later on without there being any intention on his part to pay the amount entered into an agreement to save himself from the criminal action. Such persons breach the faith of the society and demolish the general fabric of trust in the society. Such persons do not deserve to be dealt with leniency and must be punished accordingly to law. I consider that it was not a fit case for quashing of FIR. The petition is hereby dismissed.

July 02, 2010
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SHIV NARAYAN DHINGRA J.