

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**C.R.M-M No.38548-2014 (O&M)  
Date of Decision : 25.08.2015**

Pawan Kumar

..... Petitioner

Versus

State of Punjab

..... Respondent

**CORAM : HON'BLE MR. JUSTICE AJAY TEWARI**

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Present : Mr. Inderjit Sharma, Advocate  
for the petitioner.

Mr. Ashish Sanghi, DAG, Punjab.

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

**AJAY TEWARI, J. (Oral)**

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.129 dated 08.11.2012, under Sections 420/34 IPC, registered at Police Station Division No.2, Pathankot.

Reply by way of affidavit of Manoj Kumar, PPS, Deputy Superintendent of Police (City), Pathankot on behalf of respondent-State of Punjab has been filed and the same is taken on record. Copy supplied to the counsel opposite.

As per the allegations in the FIR the father of the petitioner was the owner of one shop No.2 which was agreed to be sold to the complainant for a sum of Rs.3,75,000/- and Rs.3,50,000/- was taken as earnest money by the father of the petitioner, the petitioner and his brother. However the sale deed was not executed and the shop was sold to some other person.

Learned counsel for the petitioner has argued that in the alleged agreement to sell (Annexure P-2) the money has been shown to be paid to the owner i.e. Prem Kumar. The petitioner is neither a witness nor beneficiary and therefore, the oral assertion that the money was not paid only to Prem Kumar but the petitioner also received the same, cannot be heard from the mouth of the complainant and if this allegation is ignored the averments in the FIR do not disclose that any offence had been committed by the petitioner.

In the reply filed also the only ground taken for the inculcating the petitioner is that he took the money.

Learned DAG is not in a position to deny that as per the alleged agreement to sell (Annexure P-2) the money was paid to Prem Kumar.

In the circumstances, I find the continuance of the proceedings against the petitioner to be an abuse of the process of law.

Consequently, this petition is allowed and the above said FIR and all consequential proceedings arising therefrom are quashed qua petitioner.

Since the main case has been decided, the pending Criminal  
Misc. Application, if any, also stands disposed of.

**25.08.2015**

*Pooja Sharma-I*

**( AJAY TEWARI )  
JUDGE**