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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Order: July 16, 2015

+ CRL.M.C. 32/2013 & Crl.M.A.156/2013

HARJINDER PAL SINGH

..... Petitioner

Through: Mr. Rajat Aneja and Mr. Kartikeya
Bhargava, Advocates

versus

STATE & ANR.

.... Respondents

Through: Mr. Navin Sharma, Additional
Public Prosecutor for respondent-
State with SI Daya Kishan
Mr. B.A. Khan, Advocate for
respondent No.2

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

% **(ORAL)**

Vide order of 19th December, 2011 trial court has directed registration of FIR in respondent/complainant's complaint relating to obtaining of respondent/complainant's signatures and thumb impression on four blank stamp-papers by petitioner in lieu of loan given by petitioner to respondent-complainant. What has weighed with the trial court is that the '*Agreement to Sell and Purchase*' and the '*Earnest Money Receipt*' is required to be scientifically examined as regards its typed contents while expressing a doubt that the contents of this document may be forged.

Petitioner's revision petition against the aforesaid order stands dismissed by Revisional Court by holding that trial court's order is

interlocutory one and the revision against it is not maintainable. However, on merits also, Revisional Court has not found any substance in the stand taken by petitioner without delving much upon the merits of the case.

At the hearing, learned counsel for petitioner draws the attention of this Court to Trial Court's order of 19th December, 2011 (*Annexure P-10*) to point out that it is noted therein that at the instance of petitioner, *FIR No.340/2008 under Sections 420/34 of IPC* was registered on 9th September, 2008 at Police Station Tilak Nagar, Delhi. Learned counsel for petitioner further points out that the said FIR was registered in pursuance to petitioner's complaint of 6th May, 2008 and respondent/complainant had also filed a complaint on 31st May, 2008 on the basis of which impugned order has been passed.

It is submitted on behalf of petitioner that no case for registration of FIR is made out as respondent/complainant's stand is a counter-blast to petitioner's FIR case. It is further submitted that respondent/complainant is not illiterate person and by no stretch of imagination, it can be believed that he will sign the blank documents as security document in lieu of loan taken by him from petitioner. It is pointed out that the transaction between the parties was in respect of the purchase of respondent/complainant's property and the documents i.e. '*Agreement to Sell and Purchase*', etc., which are now being said to be forged, were duly executed by respondent/complainant and respondent/complainant has already received the earnest money of ₹11 lac and a suit for specific performance by petitioner against respondent/complainant is already pending. Thus, it is submitted that the registration of FIR on

respondent/complainant's complaint is nothing but an abuse of the process of the court and so, impugned order deserves to be quashed.

Learned counsel for respondent/complainant supports that the impugned order and submits that the authenticity of the documents i.e. '*Agreement to Sell*', etc., have to be established and this can be done by scientific examination and for this purpose, the registration of the FIR is necessary.

Upon hearing and on perusal of the impugned order and material on record, I find that respondent's complaint is in fact a counterblast to petitioner's FIR of cheating etc. and since respondent-complainant has already admitted his signatures on the documents in question, therefore no case for registration of FIR on the complaint of respondent/complainant is made out. At best, it can be said that the complaint of respondent No.2 can be tried alongwith FIR case, so that a true picture emerge before the Court.

In the light of aforesaid, impugned orders are hereby quashed with direction that complaint of respondent No.2 be tried alongwith FIR No.340/2008 registered at Police Station Tilak Nagar, Delhi for the offence of cheating etc.

This petition and application are accordingly disposed of while refraining to comment upon merits of this case, lest it may prejudice either side before trial court.

(SUNIL GAUR)
JUDGE

JULY 16, 2015

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