

CRM-M-12876 of 2016 (O&M)

[1]

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No. 289

CRM No.M-12876 of 2016 (O&M)

Date of decision: December 19, 2016

Shama & Another

.... Petitioners

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Sidharth Grover, Advocate for
Mr. S.S. Narula, Advocate,
for the petitioners.

Ms. Harpreet Kaur, AAG, Haryana.

Mr. Nandan Jindal, Advocate,
for the complainant.

JASPAL SINGH, J.

CRM No.29589 of 2016

Application is allowed as prayed for.

Documents (Annexures A-4 to A-8) are taken on record subject
to all just exceptions and be tagged at appropriate place.

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The instant petition has been preferred under Section 438 Cr.P.C. by the petitioners seeking pre-arrest bail, feeling apprehension of their arrest, in case bearing FIR No.69, dated March 13, 2016, under Section 3 of the Haryana Protection of Interest of Depositors Act, 2014 (Sections 406, 420 & 120-B of IPC were added later on), registered at Police Station Pinjore, District Panchkula.

2. Instant FIR has been lodged on the basis of complaint made by the complainant-Shikha Garg against the petitioners Rozi @ Shama Devi and Nanu @ Sidharth Aggarwal for cheating and conspiracy by not executing the sale deed of the house after obtaining earnest money. The complainant alleged that on February 06, 2014, petitioners and complainant entered into an agreement to sell house measuring 3 Biswas situated at Village Bitna, Kalka. Full consideration of ₹ 25 lacs was paid but sale deed was not executed.

3. Learned counsel for the petitioners has contended that petitioner No.1 admitted her signatures on the agreement of sale but denied the contents of the agreement of sale which have been incorporated on a paper bearing her signatures. It has been submitted by counsel for the petitioners that there had been financial dealings of the petitioners with the complainant as well as few other persons and on account of malafide intentions, the petitioners have been falsely implicated in the instant case. Learned counsel for the petitioners also submitted that the provisions of the Haryana Protection of Interest of Depositor Act, 2013 will not be applicable

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in the present case.

4. Learned State counsel assisted by Mr. Nandan Jindal, Advocate for the complainant has opposed the petition submitting that the complainant has been cheated by the petitioners as the petitioners have received full sale consideration of ₹ 25 lacs and did not execute the sale deed.

5. This court has given a deep thought to the aforesaid submissions made by learned counsel for the parties and perused the record available on file.

6. As per the case of the prosecution, petitioners-accused entered into an agreement for sale with complainant in respect of house, measuring 3 Biswas situated at Village Bitna, Kalka and received total sale consideration of ₹ 25 lacs. As per the agreement, accused-Shama Devi was required to provide no objection certificate to the complainant within a period of 11 months from the date of agreement, but she failed to provide the same as Bank loan was outstanding against the house in question. Instead, she executed a special power of attorney in the name of another person giving him the rights to sell it to any person of his choice. Statement of petitioner No.1-Shama Devi was recorded by the police on February 05, 2016, wherein, she admitted her signatures on the agreement in question. Similarly, statement of Parveen Kumar s/o Partap Chand, who was an attesting witness on the agreement for sale was recorded by the police on January 27, 2016, wherein he has categorically denied his signatures on the agreement. Accused-petitioner No.2 had admitted execution of special

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power of attorney dated November 13, 2015 by accused No.1-Shama Devi in his favour. In this view of the matter, this court is of the considered view that allegations against the petitioners are grave and serious in nature. Custodial interrogation of the petitioners is required to un-earth all the ramifications involved in the case.

7. Instant petition stands dismissed accordingly.

December 19, 2016

Avin/Ankur

**(JASPAL SINGH)
JUDGE**

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No