

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18174-2016

Shamsher Singh and another

... **Petitioners**

v.

State of Haryana

... **Respondent**

2.

CRM-M-19769-2016

Ram Niwas

... **Petitioner**

v.

State of Haryana

... **Respondent**

3.

CRM-M-20726-2016

Subhash

... **Petitioner**

v.

State of Haryana

... **Respondent**

Date of decision: July 21, 2016.

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Shri Amarjit Singh Virk, Advocate for the petitioners.
Ms. Tanushree Gupta, Deputy Advocate General, Haryana.
Shri Manvinder Dalal, Advocate for the complainant.

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

A.B. Chaudhari, J. (Oral):

Heard learned Counsel for the rival parties at length.

In all these three petitions, the petitioners seek the relief of grant of anticipatory bail in FIR No.128 dated 4.4.2016, registered under Sections 420, 342, 506, 120-B IPC at Police Station Kaithal City, District Kaithal.

Learned Counsel for the petitioners in all these petitions contended at the outset that the dispute is of civil nature between the parties and petitioner Subhash has produced on record contemporaneous evidence about the sale of his property a few days before the payment of Rs.40.00 lacs to Rajbir as earnest money which he had kept in the bank and then withdrawn the same on the relevant date for payment of consideration to Rajbir. He further submitted that Subhash had already filed a civil suit for specific performance of the contract in relation to the agreement to sell dated 21.6.2012 entered into by Rajbir in his favour and the sale deed was to be executed by 21.12.2012. According to him, on that date Rajbir did not appear before the Sub Registrar for registration of the sale deed and thereafter the dispute started. He then submitted that there is a registered lease deed dated 7.8.2012 in which there is a recital that the land stood transferred in favour of one of the sons of complainant Siri Ram shown dead which was done with a view to avoid registration of sale deed in favour of Subhash, the petitioner.

Learned Counsel for the respondent-complainant, however, countered this submission and submitted that there appears to be a mistake in describing Siri Ram as a dead man who is still alive and is a complainant in this case.

Upon hearing learned Counsel for the rival parties, at the outset I find that the complaint came to be lodged for the first time in respect of the alleged offence in question on 23.6.2012 by Siri Ram that his brother deceased Rajbir did not receive a single penny from Subhash or any other person for execution of the agreement to sell, much less Rs.40.00 lacs and that fact was told by Rajbir to him after he was released since he was kidnapped by the accused persons.

Petitioner Subhash had also given a legal notice and not only that he had lodged a complaint on 25.6.2015 to the Superintendent of Police on the date that was fixed for registration of the sale deed when the sale deed was not executed way back in 2012. It is only after this complaint was lodged, the complaint in question was lodged by the complainant Siri Ram. He therefore submits that the nature of the dispute is purely of civil nature and is sought to be converted into the dispute of criminal nature by the complainant. According to him, even document 7.8.2012 lease deed was prepared with a view to counter-blast the agreement dated 21.6.2012, executed by Rajbir.

Having seen the entire record and the documents and upon hearing learned counsel for the parties as above, I find that prima facie there is evidence to show that petitioner Subhash had parted with an amount of Rs.40.00 lacs and that is well established by the bank documents as well as the registered sale deed executed by him. The dates are closely related to the events which have been quoted by learned Counsel for the petitioners. It is difficult to fathom, as contended by learned counsel for the

complainant, particularly in the light of the fact that the complaint was lodged after about four years that forgery was made. It is thus clear that the complaint was afterthought lodged in the police station concerned.

Be that as it may, this Court has made orders on 24th May, 2016 granting interim anticipatory bail. The petitioners have joined the investigation. In view of the fact that the dispute prima facie appears to be of civil nature and the interim order was made by this Court, the same deserves to be confirmed. Rule is therefore made absolute in terms of the interim orders dated 24.5.2016, 2.6.2016 and 10.6.2016 in the respective petitions. It is made clear that any observations in this order on merits shall not prejudice the trial Judge in deciding the pending suit on its own merits. The petitioners will continue to remain on bail till the conclusion of the trial.

The petitions stand disposed of.

July 21, 2016.
kadyan

[**A.B. Chaudhari**]
Judge