

CRM-M-22370-2013 (O&M)

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

CRM-M-22370-2013 (O&M)

Date of Decision: 12.05.2016

HATINDER SINGH

... Petitioner

VS.

STATE OF PUNJAB & ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

Present: Mr. G.K. Mann, Advocate,
for the petitioner.

Mr. A.P.S. Gill, AAG, Punjab.

Mr. H.S. Deol, Advocate,
for the respondent No. 2.

1. *Whether Reporters of Local Newspapers 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?*

KULDIP SINGH, J (ORAL)

The petitioner-Hatinder Singh has filed the present petition under Section 482 Cr. P.C. for quashing of FIR No. 59 dated 17.05.2013 under Sections 420, 120-B, 506 of Indian Penal Code (for short 'IPC') registered at Police Station Division No. 4, District Ludhiana City.

Heard.

The short controversy is that one Ramesh Sharma executed an agreement to sell dated 26.07.2010 in favour of respondent No. 2-Sarabjit Singh. ₹ 20.00 Lacs were paid in cash as a token money. The sale deed was to be executed on or before 26.01.2011. The date of registry was subsequently extended to 16.05.2011. It also comes out that the said Ramesh

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Sharma died on 16.12.2010. Thereafter notice to the legal heirs were issued. It is further alleged in the FIR that later-on on 28.12.2010, a compromise was arrived at between the legal heirs of Ramesh Sharma and the complainant. However, the legal heirs later on have backed out from the compromise and executed a sale deed dated 08.03.2013 in favour of the present petitioner-Hatinder Singh.

It also comes out that as per the reply filed by the State, in this case the challan has already been presented before the lower Court. The present petitioner-Hatinder Singh has been made one of the accused alongwith four other accused and out of which one has died. The short question arising before this Court is 'whether the subsequent purchaser-Hatinder Singh is liable under Section 420 read with Section 120-B of IPC.'

It comes out that the petitioner-Hatinder Singh has paid sale consideration of ₹ 26,44,800/- at the time of execution of sale deed. He sought to be made liable with the aid of Section 120-B IPC.

I am of the considered view that if Hatinder Singh-petitioner, had knowledge about the previous agreement with the complainant-Sarbajit Singh, he would never have paid the sale consideration and purchased the property in question, because in case Sarbjit Singh file a suit for specific performance, the subsequent purchaser will be bound by the previous

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agreement and he stand the chance of losing property without getting anything in the said litigation. In case he loses the case, he will have to file a suit of recovery against the purchaser. Therefore, prima facie a normal man will not invite such trouble. The fact that entire consideration was paid goes to show that Hatinder Singh-petitioner did not conspire with the seller. If the complainant is aggrieved, he can always file the civil suit after making the present petitioner and earlier purchaser party to seek specific performance of the prior agreement.

It being so the present FIR and the filing of challan against the subsequent purchaser Hatinder Singh-petitioner is nothing but misuse of process of court. Accordingly, FIR No. 59 dated 17.05.2013 under Sections 420, 120-B, 506 of IPC registered at Police Station Division No. 4, District Ludhiana City, so far as it relates to Hatinder Singh-petitioner is quashed alongwith all the subsequent proceedings arising therefrom.

However, the proceedings against the remaining accused can continue.

In view of the above, the present petition is allowed.

[KULDIP SINGH]
JUDGE

May 12, 2016
Suresh Kumar