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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM No. M-28855 of 2013 (O/M)
Date of decision : 30.5.2016

Amrik Singh and others Petitioners

Versus

State of Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. P.S. Ahluwalia, Advocate, for the petitioners.

Mr. P.S. Paul, Deputy A.G. Punjab.

Mr. A.P.S. Shergill, Advocate, for respondents No. 2 and 3.

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

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KULDIP SINGH J. (ORAL)

The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No. 46, dated 24.3.2013, registered under Sections 406, 420 IPC at Police Station Patran, District Patiala (Annexure-P-1), alongwith all the subsequent proceedings arising therefrom.

The facts, as coming out from the FIR in question and the annexed documents, are that the present petitioners, namely, Amrik Singh, Gurdeep Singh and Sukhwinder Singh had entered into a agreement of sale dated 28.2.2006 (Annexure-P-2) with Harkesh Singh and Harwinder Singh (respondents No. 2 and 3 herein) to sell their land measuring 38 kanals 7 marlas at the rate of Rs. 8.20 lacs per acre. Rs. 8 lacs were paid as earnest money. The date of execution of sale deed was fixed as 2.7.2006. On 3.7.2006 with mutual consent of both the parties, the date of execution of sale deed was extended to 11.7.2006, vide writing dated 3.7.2006

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(Annexure-P-3). On the said date, the sellers did not turn up to execute the sale deed. It also comes out that earlier a complaint No. 152PR dated 21.1.2008 was filed by the complainant Hawinder Singh etc., in which inquiry was conducted by Deputy Superintendent of Police, Patran, and it was reported, vide report dated 17.5.2008 (Annexure-P-4), that the dispute is of civil nature, in which no action is required to be taken by the police. Thereafter, again, the present complaint was filed on 27.12.2012, on the basis of which the present FIR was registered.

I have heard the learned counsel for the parties and have also carefully gone through the file. I have considered the case of respondents No. 2 and 3.

The plain reading of the abovenoted facts show that it is a case of agreement of sale, where the sellers did not execute the sale deed. In the complaint itself, it is stated that there was a bank loan pending on the land, which was not disclosed to the buyers and further that there was difference of khasra numbers mentioned in the agreement as well in the jamabandi.

I am of the view that if there was a bank loan, the same could be retained out of the sale consideration and for some error in the khasra numbers, the sale deed could be executed regarding the correct khasra numbers. It is stated that the sale deed was not executed on 11.7.2006, as per the agreement, though, the complainants were ready to get the sale deed executed. The earlier complaint was filed in the year 2008 and the second complaint was filed in the year 2012. In the year 2012, the civil dispute in this case was already time barred. Therefore, basically it is a civil dispute and offences under Sections 406, 420 IPC are not attracted. It being so, the present FIR is nothing, but misuse of process of Court. Therefore, FIR No.

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46, dated 24.3.2013, registered under Sections 406, 420 IPC at Police Station Patran, District Patiala (Annexure-P-1), alongwith all the subsequent proceedings arising therefrom stand quashed.

The present petition is accordingly allowed.

(KULDIP SINGH)
JUDGE

30.5.2016
sjks