

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

**CRM No.M-28624 of 2015 (O&M)
Date of Decision: December 09, 2016**

Sukhraj Singh

...Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Rajiv Kataria, Advocate for the petitioner.

Mr.Varun Sharma, Asstt. Advocate General, Punjab
for the respondent-State.

Mr.L.M.Gulati, Advocate for respondents No.2 and 3.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against State of Punjab and other respondents, for quashing of FIR No.166 dated 18.06.2015 under Sections 420 and 120-B IPC registered at Police Station Jandiala Guru along with all subsequent proceedings arising therefrom, qua the petitioner.

Notice of motion was issued and learned State counsel as well as learned counsel for respondents No.2 and 3 appeared and contested the petition.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

From the record, I find that FIR in the present case has been got registered by Jaideep Singh against Sukhraj Singh and Bhupinderpal Kaur.

He stated that he wanted to purchase a constructed house at Amritsar for his

own residence, for which, he talked to his known Navtej Singh Malli, who told him that his known Sukhraj Singh Bal and Bhupinderpal Kaur, have constructed a double storey house, which they want to sell. On 19.09.2011, complainant and Sukhraj Singh gathered at the office of Navtej Singh Malli, where Sukhraj Singh told the complainant that house is constructed in 250 sq. yards, which is in his name and his wife. Then, both the parties finalized the deal in 64 lacs lumpsum. On 20.09.2011, complainant reached at the office of Navtej Singh Malli and Sukhraj Singh came along with Jatinder Singh and complainant gave amount of ₹14 lakhs as earnest money to put his thumb impression on the agreement to sell, which was already typed regarding house bearing total area of 250 sq. yards. While entering into the agreement to sell, Sukhraj Singh Bal had agreed in writing that he will get the correction in the record of 8 marla plot regarding the mutation and responsible for getting the registry done. The complainant then stated that he talked to wife of Sukhraj Singh Bal namely Bhupinderpal Kaur on telephone, who assured that she is agreed with the deal finalized by her husband. After this, Sukhraj Singh Bal went abroad and Paramjeet Singh and Karnail Singh demanded money from the complainant for getting the correction done in the record of plot of Sukhraj Singh. On 21.03.2012. Paramjeet Singh and Karnail Singh received ₹15 lakhs from the complainant and finalized the date 30.04.2012 for registry. On 31.03.2012, Paramjeet Singh and Karnail Singh received ₹20 lakhs more from the complainant and assured him to get the registry done. The complainant requested Sukhraj Singh, his wife Bhupinderpal Kaur on telephone and their attorney Paramjeet Singh and Karnail Singh, to get the registry done after

kept on lingering the matter. On returning back of Sukhraj Singh from abroad, complainant along with Navtej Singh Malli contacted Sukhraj Singh and requested him to get the registry done after getting the correction in ownership. Then he told that he has applied in improvement trust for NOC and had also talked to Patwari/Girdawar for correction in mutation. In March 2015, Sukhraj Singh Bal called the complainant and told that he has received NOC from Improvement Trust and correction has also been done in the record of mutation and demanded the remaining amount from him, on which, both the parties decided the time for measurement of house. When both the parties measured the house, area of the house was only 210 sq. yards. The complainant also stated that he further paid ₹5 lakhs to Sukhraj Singh Bal. Later on, he came to know that 7 marla land is in the name of Sukhraj Singh and his wife Bhupinderpal Kaur. Neither correction has been made nor it is to be corrected. It is also in the FIR that complainant met Sukhraj Singh Bal and talked to his wife telephonically and requested to get the registry of the house done or to refund him ₹54 lakhs but both of them said that they were to cheat the complainant and cheated him, now do whatever want to do.

The perusal of the FIR itself shows that it is a case of civil nature. Agreement to sell has been scribed and the date for execution of the sale deed was 30.04.2012. There is nothing in the FIR that the accused have the intention to cheat from the very beginning nor there is any alleged act to show that there was any intention of the accused-persons to cheat from very beginning, which is a necessary ingredient. Secondly, the perusal of the FIR itself shows that Bhupinderpal Kaur, who was also co-sharer in the house

made any attempt to get the signatures of Bhupinderpal Kaur, co-sharer on the agreement to sell. The property in question is a double storey house. Even if it is taken that area is of 210 sq. yards instead of 250 sq. yards, even then, the amount can be adjusted regarding the less area at the time of execution of the sale deed. Even if it is true that accused refused to execute the sale deed, then the complainant had the remedy to file civil suit for specific performance but the complainant has not availed his remedy in the civil law during the period of limitation. Now, when the time for getting executed the sale deed or filing the suit, has expired, the present FIR has been got registered. Otherwise also, from the perusal of the FIR, I find that when measurement was done and the area of the house came to be 210 sq. yards instead of 250 sq. yards, then why the complainant paid further ₹5 lakhs to Sukhraj Singh Bal, which means that even after coming to know that area of the house is 210 sq. yards, the complainant paid ₹5 lakhs more as part payment of the sale consideration to accused Sukhraj Singh Bal.

From the perusal of the FIR itself, it is clear that dispute between the parties is of civil nature. The offence under section 420 IPC is not made out as there is no averment in the complaint that from the very beginning the the accused have the intention to cheat the complainant.

Therefore, finding merit in the present petition, the same is allowed. FIR No.166 dated 18.06.2015 under Sections 420 and 120-B IPC registered at Police Station Jandiala Guru all the subsequent proceedings arising therefrom are hereby quashed.

December 09, 2016
Vgulati

(INDERJIT SINGH)
JUDGE
Yes
No

Whether speaking/reasoned
Whether reportable