

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

Date of decision : 27.01.2016

(i) CRM M-8100 of 2008

Gurmail Singh & ors.Petitioners

V/s

The State of Punjab & anr.Respondents

(i) CRM M-10596 of 2008

Surinder SinghPetitioner

V/s

The State of Punjab & anr.Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. M.S. Rai, Advocate for the petitioners in
(CRM No. M-8100 of 2008)
Mr. Arun Nehra, Advocate for the petitioner in
(CRM M-10596 of 2008)

Mr. Ankur Jain, AAG Punjab.

Mr. Satinder Khanna, Advocate for respondent no. 2.

RAJAN GUPTA J.

This order will dispose of aforesaid two petitions moved by petitioners under section 482 Cr.P.C. seeking quashing of FIR No. 275 dated 30.08.2007 registered against them under sections 420, 461, 467, 468, 471 & 120-B IPC at police station City Phagwara, District Kapurthala.

Mr. Nehra, learned counsel for the petitioner-Surinder Singh submits that there is no allegation against him. He only signed as a witness on the affidavit, Annexure P-6. According to learned counsel, dispute is purely civil in nature. They submit that

an inquiry was conducted by Deputy Superintendent of Police,

Kapurthala wherein he found that fraud had been committed by the other side. Besides, a civil suit is already pending. Thus, FIR in question deserves to be quashed. They have relied upon judgments reported as *Arun Kumar & anr. vs. State of Punjab & anr. 2006(3) RCR (Criminal) 793* and *Inder Mohan Goswami & anr. vs. State of Uttarchal & ors. 2007(4) RCR (Criminal) 548*.

Plea has been opposed by learned State counsel. According to him, there are serious allegations in the FIR against the petitioners. Challan was filed after thorough investigation. No case for quashing in inherent jurisdiction is, thus, made out.

FIR was registered on the basis of a complaint received from Darshan Lal (respondent no. 2). He alleged that petitioners had entered into agreement to sell of land measuring 164 marlas situated in revenue estate of village Jamalpur, Tehsil Phagwara, district Kapurthala for ₹1,74,66,000/-. Out of the said amount, ₹40,00,000/- was received as earnest money by the petitioners. It was further alleged that the sale-deed would be executed on or before 20.07.2007. However, petitioners did not execute the sale-deed, thus, played a fraud with him. On the basis of aforesaid allegations, FIR was registered and investigation ensued. Investigating agency came to the conclusion that petitioners were guilty. It filed challan against them before the competent court on 08.01.2008. According to reply filed by way of affidavit of Harkamal Preet Singh, Deputy Superintendent of Police, Phagwara, accused-petitioners defrauded the complainant of huge amount of ₹40.00 lacs. Accused Surinder Singh appended his signatures as a witness to agreement to sell dated 29.01.2008, Annexure P-6. This

document was forged by co-accused. In my considered view judgment relied upon by petitioners cannot help their case as facts of the case are totally different. The pleas raised can only be decided after evidence is led before the trial court. In view of judgment of the Apex court in *Arun Bhandari vs. State of U.P. & ors. 2013(2) RCR (Criminal) 261*, civil and criminal proceedings can go on simultaneously in such matters. There is, thus, no merit in the petitions. Same are dismissed.

January 27, 2016

Ajay

(RAJAN GUPTA)
JUDGE