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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **CRL.M.C. 2526/2016**

% Decided on: 20th July, 2016

ANIL BHATIA ..... Petitioner

Represented by: Mr. Mukesh Kumar Sharma and Mr. Pradeep Kumar Kaushik, Advocates.

versus

STATE & ANR. ..... Respondents

Represented by: Mr. Ravi Nayak, APP for the State with SI Mohinder Singh, PS Rajouri Garden, Delhi.

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

Crl. M.A. No. 10826/2016 (Exemption)

Allowed, subject to all just exceptions.

CRL.M.C. 2526/2016

1. By the present petition the petitioner seeks quashing of FIR No. 1159/2014 under Section 420 IPC registered at PS Rajouri Garden, Delhi on the ground that the petitioner has been falsely implicated, while giving directions for registering the FIR under Section 156 (3) Cr.P.C. the learned Trial Court did not take note of the directions issued in the decision reported as 170 (2010) DLT 516 *Subhkaran Luharuka s/o Late K.P. Luharuka and Shree Ram Mills Ltd. Vs. State (Govt. of NCT of Delhi) and Utility Premises Pvt. Ltd.* It is stated that a bare perusal of the FIR does not prima facie disclose commission of any offence, the allegations in the FIR are vague and

generic and the complainant has placed no documents in support of the allegation in the FIR.

2. The allegations of the respondent in the FIR are that the petitioner approached the complainant being in financial need. The complainant sought some time to think over. Before he could talk further on the issue, the petitioner proposed to mortgage second floor of his property admeasuring 378 Sq. yards with roof rights forming part of the property bearing No. E-11 measuring 600 sq. yards situated in Rajouri Garden with free hold rights of the land thereto. A Mortgage Deed dated 12th January, 2012 without possession was executed by the petitioner as against the payment of ₹27 lakhs duly acknowledged to have been received by him payable in six months. Thereafter the petitioner again approached the complainant with an offer to sell the second floor for a consideration of ₹1.50 crores only to which the complainant agreed and the parties entered into an Agreement to Sell and Purchase dated 18th January, 2012 and a further sum of ₹30 lakhs was paid to the petitioner, with six months' time for payment of the balance amount. In the month of April, 2012 the petitioner again requested for more payment as he was in dire need. Thus the complainant paid a further sum of ₹51 lakhs to the petitioner against four receipts duly acknowledging the payment of ₹51 lakhs. Thus the petitioner received a total sum of ₹1.08 crores till April, 2012 in terms of the Agreement to Sell dated 18th January, 2012. The complainant asked the petitioner to execute the sale deed however, he did not do so and sought further time repeatedly. In the second week of December, 2013 the complainant learnt that the property in question, which the petitioner had firstly mortgaged with him and thereafter entered into an Agreement to Sell, executed General Power of Attorney and

Special Power of Attorney had already been mortgaged to Punjab National Bank, Rajouri Garden Branch, New Delhi. Thus the petitioner had with mala fide and dishonest intention defrauded and cheated the complainant and when demand to return ₹1.08 crores was made, the petitioner did not return the money.

3. On the allegations as noted above it cannot be held that they constitute only a civil dispute and no case for cheating is made out. The learned Trial Court rightly issued directions under Section 156 (3) Cr.P.C. and this Court also finds no reason to quash the FIR and nip in bud the proceedings pursuant thereto.

4. Petition is dismissed.

(MUKTA GUPTA)
JUDGE

JULY 20, 2016
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