

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CRIMINAL APPELLATE JURISDICTION*****CRIMINAL WRIT PETITION NO.2081 OF 2017**

Palwinder Singh.] ... Petitioner

Versus

1. The State of Maharashtra,]
2. Major Satender Singh.] ... Respondents

Ms. Sangeeta S. Salvi for Petitioner.
Mr. K. V. Saste, Addl. P. P. for State.

**CORAM :- R. M. SAVANT &
SARANG V. KOTWAL, JJ.**
DATE :- 26 FEBRUARY, 2018

P. C. :-

1. The above Writ Petition has been filed for quashing of the F.I.R. in C.R.No.63 of 2016 registered with the Lashkar Police Station, Pune for the offences punishable under Sections 420, 465 and 467 read with Section 34 of the IPC. The first informant is the Respondent No.2 herein. The allegations are revolving around the sale of the property of the Respondent No.2 i.e. the first informant, to the Petitioner. It seems that insofar as the agreement to sale between the parties is concerned, a suit for specific performance being Civil Suit

No.323/23.12.2008/29.04.2009 was filed by the Petitioner herein against the Respondent No.2 which came to be decreed by the Judgment and Order dated 21/02/2014 passed by the learned Civil Judge Senior Division, Sas Nagar Mohali and the directions came to be issued to the effect that the Sale Deed to be executed on the Petitioner depositing the balance consideration of Rs.24,50,000/- in the Trial Court. It seems that the instant F.I.R. came to be registered after the said suit filed by the Petitioner had been decreed on 21/02/2014. Notice was issued to the Respondent No.2 in the above Writ Petition. However in spite of service of notice, no appearance is put up on behalf of the said Respondent. During the course of hearing of the above Writ Petition, we were informed by the learned Counsel for the Petitioner that in the execution proceedings, the Sale Deed came to be executed in favour of the Petitioner and that the Petitioner had also deposited the balance consideration of Rs.24,50,000/-. We had, therefore, on the last occasion, deferred the hearing of the above Writ Petition so as to facilitate the learned Counsel for the Petitioner to ascertain as to whether the Respondent No.2 has withdrawn the said amount of Rs.24,50,000/-. The learned Counsel for the Petitioner today tenders an advise from the concerned

bank indicating that the amount of Rs.24,50,000/- has been transferred by RTGS to the account of the Respondent No.2 and Sonu Walia. Hence, insofar as execution of the decree is concerned, the same is completed. If that be so, the F.I.R. lodged on the basis that the offences have arisen on account of the agreement to sale which the Petitioner had got executed from the Respondent No.2, would serve no useful purpose on account of the supervening event of the Decree passed by the Trial Court being executed, the Petitioner being put in possession, the Petitioner having constructed upon the plot of land in question and the Respondent No.2 having withdrawn the balance consideration of Rs.24,50,000/-. The said conclusion of ours also finds support in the Judgment of the Apex Court in the case of **Gian Singh Vs. State of Punjab & Anr..** The petition is accordingly required to be allowed and is accordingly allowed in terms of prayer clause (a). The bank advise is taken on record and marked 'X' for identification.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)