

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

101

CRM-M-10881-2018(O&M)

Date of Decision: March 21, 2018

Sh. Suraj Singh and another

.....Petitioner(s)

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. G.S. Ghuman, Advocate
for the petitioners.

Sudhir Mittal, J. (Oral)

CRM-10106-2018

This is an application for placing on record a copy of civil suit dated
03.11.2017 (Annexure P-8).

Application is allowed as prayed for and documents at Annexure P-8
is taken on record.

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Notice of motion.

2. Mr. Kirat Singh Sidhu, DAG, Punjab, accepts notice on behalf of
respondent-State. Mr. P.S. Punia, accepts notice on behalf of the complainant.
3. The petitioner and the complainant are alleged partners by virtue of an
agreement dated 11.07.2011, whereby the complainant became 60 % partner in the

deal made between petitioner No.2 and Surinder etc.(original owner). The FIR in dispute has been filed on the ground that petitioner No.2 induced the complainant with a fraudulent intention to become a partner in the land deal and obtained Rs.33,60,000/-, whereas the land in respect of which the deal was made was non-existent.

4. Learned Senior counsel for the petitioners has contended that soon after the registration of the present FIR, a civil suit dated 03.11.2017 was filed by the complainant for refund of the amount of Rs.33,60,000/- paid by him to petitioner No.2. A copy of the plaint has been placed on record and with reference thereto, it is submitted that nothing was concealed from the complainant, when he was made a partner and therefore, fraudulent intention cannot be imported in this case. The dispute is a pure money dispute and no criminal liability is involved therein.

5. Learned counsel for the complainant submits that fraudulent intention is writ large as the land in dispute was non-existent

6. I am afraid that I cannot accept this submission of learned counsel for the complainant because admittedly a suit for specific performance was filed against Surinder etc.(original owner) by the person from whom petitioner No.2 and the complainant were to purchase land in dispute, which was decreed in his favour for the alternative relief of refund of money paid. The plaintiff in that suit has not taken any ground in the said suit that the land was non-existent. The defendant of the suit has challenged the decree for refund of money by way of an appeal. It is thus, clear that the submission of learned counsel for the complainant is misplaced. The remedy of civil suit has already been resorted to by the complainant and lodging of the present FIR appears to be arm twisting tactics.

7. The petition is accordingly allowed. The petitioners are directed to appear before the Investigating Officer as and when required. In the event of their arrest, they shall be released on anticipatory bail on their furnishing bail and surety bonds to the satisfaction of the Arresting Officer/I.O./SHO concerned subject to their compliance of provisions enshrined under Section 438(2) Cr.P.C.

March 21, 2018
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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No