

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

CRM-M No.17163 of 2018

Date of Decision: May 02, 2018

Chaturbhuj

..... Petitioner

Versus

State of Haryana & Anr.

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. P.C.Yadav, Advocate for the Petitioner.

SUDIP AHLUWALIA, J.

This is an application under Section 482 Cr.PC in which the Petitioner, who is an accused in F.I.R. No.0589 dated 27.09.2017 under Sections 420, 406 and 120-B of the Indian Penal Code, registered at Police Station Hodal, District Palwal, seeks quashing of the said FIR alongwith the consequent criminal proceedings arising out of the same.

2. The allegations made against the Petitioner and his co-accused in the FIR by the complainant (Respondent No.2) Smt. Bala are set out as below -

“I purchased land through Keshav S/o Thakur Lal s/o Gazi, resident of village Khambi, Tehsil Hodal and District Palwal and seller was Chaturbhuj s/o Gopal s/o Shiv Narayan resident of village Khambi, purchased land is total 4 kanal 11 marla,

khewat/khata No.145/188, Mustkil No.50, Kita 5/1 (4-16), Kita 1 total area 4 Kanal 16 Marla, 91/96 share, equal to 4 Kanal 11 Marla for Rs.11,37,500/- and the same was handed over to Chaturbhuj. I also deposited registry fee (SBI, Hodal) Rs.34,200/- and also paid Rs.10,000/- as govt. fees in Tehsil Hodal on 7.2.2014, but thereafter I got to know that Keshav and Chaturbhuj collusively cheated me because Chaturbhuj had already entered into the agreement to sell dated 7.10.2013 with Keshav and Keshav is the person who arranged the purchased land for me, therefore it is humbly prayed that kindly grant justice to me and take appropriate legal action against them.”

3. This Court has heard the submissions of Ld. Counsel for the Petitioner. It has been contended that the above FIR is an abuse of the Process of Law, and that the complainant/Respondent has no occasion to resort to criminal proceedings against the Petitioner, since the dispute is of Civil nature and if Respondent No.2 would have any grouse whatsoever, she can get herself impleaded as a Party in the above mentioned proceedings or can even file a separate Suit, if there is any apprehension in her mind about the cancellation of Sale Deed, even though there is no direction issued by the Ld. Civil Court while passing its Judgment dated 17.10.2016 and as such the FIR is liable to be quashed.

4. This Court is however, not in agreement with the above contentions raised on behalf of the Petitioner. Even assuming that possession of the disputed land was passed on to the complainant by the Petitioner as claimed by him (although not actually verified), still the offence of cheating which transpires from the allegations made in the FIR would be on account of suppression of a material fact that the Petitioner in

his capacity as vendor had already entered into an earlier Sale Agreement with co-accused Keshav on 7.10.2013 before he executed the Sale Deed in favour of the complainant on 7.2.2014. The moot point here is whether the complainant would ever have agreed to purchase the disputed land for such a huge consideration amount had the factum of existence of the earlier Sale Agreement not been suppressed from her. The logical answer to this question would clearly appear to be 'no'. So it cannot be said at this stage that no ingredients whatsoever to constitute at least the offence of cheating by way of willful suppression of certain material facts which resulted in an inducement to the complainant to enter into the disputed transaction and pay the consideration money for sale are not made out at all. Even otherwise, it is well settled that for the purpose of quashing criminal proceedings the test is whether the allegations made out in the complaint/FIR disclose any grounds for inquiry or trial, and it is not necessary that the available material must have to indicate only a possibility of actual conviction of the accused persons.

5. The FIR in the present case clearly meets up to this requirement, on account of which the Court finds no merit in the present application, which is accordingly dismissed.

(SUDIP AHLUWALIA)
JUDGE

May 02, 2018
AS

1. Whether speaking/ reasoned : Yes/ No
2. Whether reportable : Yes/ No