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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25143-2018
Date of decision : 20.06.2018

Jai Bhagwan

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Mukesh Yadav, Advocate
for the petitioner.

Mr. Sanjay Kumar Saini, AAG, Haryana.

Mr. Maniram Verma, Advocate
for the complainant.

AMIT RAWAL, J. (ORAL)

The petitioner has been arrested in case FIR No.779 dated 01.12.2017 under Sections 420/467/468/471/120-B IPC, registered at Police Station City Bhiwani, District Bhiwani on the allegations of the complaint that the complainant, vide sale deed dated 28.01.2013, had purchased the land in dispute from the petitioner. The aforementioned sale deed was proceeded by an agreement to sell. The civil suit has been filed on 30.03.2013 by a person claiming himself to be holder of pre-emption decree against the petitioner as well as the complainant, who has been arrayed as defendants. In view thereof, the complainant has lodged an FIR as he has been cheated, for, was not apprised about the aforementioned decree dated 07.03.1967.

Learned counsel for the petitioner submits that the aforementioned decree was never executed or implemented nor reflected in

the revenue record. The complainant had purchased the property after due verification and remain silent for all this period. It is a purely civil dispute and no criminal offence is made out.

Learned counsel for the complainant submits that it is a fit case of direct cheating as the complainant was not apprised about pre-emption decree and therefore, *mens rea* is writ large. Similar is the argument of State Counsel.

I have heard learned counsel for the parties, appraised the paper book. The civil suit with regard to the injunction is still pending. If at all, the complainant had a grievance, can always seek his grievance/claim through competent court of law by setting up a counter-claim or independent suit, but not in the manner and mode, for, during all this period, the sale deed had remained intact, even the pre-emption decree had not been implemented. It is yet to be seen whether such decree would have any affect on the title of the petitioner, much less, the complainant by virtue of the sale deed.

Without commenting upon the merit and demerit of the matter, I deem it appropriate to allow the present criminal petition and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate, Bhiwani.

20.06.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

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Whether speaking/reasoned Yes/ No

✓

Whether Reportable Yes/ No