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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM No. M-88 of 2018 (O/M)
Date of decision : 3.1.2018

M/s Bajwa Developers Limited and another Petitioners

Versus

State of Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Arvind Kashyap, Advocate, for the petitioners.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

Petitioner No. 2 is a Real Estate Developer. The learned counsel for petitioners contends that petitioner entered into agreement to sell with various persons prior to year 2013, regarding sale of plots/flats. All the terms and conditions were mentioned therein. One copy of the agreement to sell is annexed with the petition as Annexure-P-1. The learned counsel for petitioners has pointed out that in case of technical defect, the buyer was entitled for refund of earnest money and in case of change of size, location etc., the buyer was given right to accept the changed flat/plot. The learned counsel for petitioners contends that in some of the cases, the buyers have defaulted in making payments. Though, it is a civil dispute and civil suits to enforce rights under the agreements have become time barred, even then the police is registering FIRs against petitioners under Sections 406, 420 IPC and forcing the petitioners to refund the earnest money. It is contended that two such FIRs have already been registered against petitioners and some other complaints are under process. The prayer is for grant of blanket anticipatory bail.

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After arguing for some time, the learned counsel for petitioners does not press the blanket anticipatory bail at this stage and seeks to press only this much prayer that police should be directed to first determine the fact whether it is a civil dispute and whether it has become time barred and that the petitioners should be given an opportunity of hearing during the preliminary inquiry.

It being so, at this stage, petition is disposed of with a direction to respondents that in case a complaint is received regarding agreements of sale of plot/flat by the petitioners, the police will first conduct the preliminary inquiry and determine whether it is a civil dispute or criminal offence and further whether the civil dispute has become time barred. The police will also grant opportunity to the petitioners to put forward their side of the case and thereafter take action in accordance with law. However, if a criminal case is registered against the petitioners, the petitioners will always be at liberty to approach this Court for quashing/grant of anticipatory bail, keeping in view the peculiar facts of the said case.

(KULDIP SINGH)
JUDGE

3.1.2018
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No