

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-27941 of 2018 (O&M)

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Date of decision:10.05.2019

Rakesh Kumar

.....Petitioner

v.

State of Haryana and another

.....Respondents

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Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Aseem Malhotra, Advocate for Mr. Ram Kumar Saini,
Advocate for the petitioner.

Mr. Sharad Kumar Yadav, Deputy Advocate General, Haryana
for the respondent-State.

Mr. Gautam Dutt, Advocate for the complainant-respondent
No.2.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing of the FIR No.158 dated 5.4.2018 (Annexure-P.1) registered for the offences under Sections 120-B, 406, 420, 467, 468, 471 and 506 IPC at Police Station Badshahpur, District Gurugram and all subsequent proceedings arising therefrom.

Notice of motion was issued in this case.

Mr. Sharad Kumar Yadav, learned Deputy Advocate General,

Haryana has appeared on behalf of the respondent-State and Mr. Gautam

Dutt, learned Advocate has appeared for the complainant-respondent No.2 and contested this petition.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

In the present case, challan has not been presented so far and the investigation is going on. The FIR in the present case has been got registered on the basis of a complaint filed by Ajay Singh Chauhan. The present petitioner is named in the FIR. As per allegations in the FIR, the present petitioner along with co-accused Bahadur Singh Chauhan forged the agreement to sell with the complainant and as per FIR, ₹2 Crores were paid to accused No.1. As per the allegations, Bahadur Singh Chauhan was not the owner of the property, but they forged the agreement and Rakesh Kumar was the witness.

As per the FIR, the cheques were handed over by Bahadur Singh to return the earnest money which were bounced. It is also in the FIR that the present petitioner and Bahadur Singh again in connivance with each other got the sale deed executed regarding the property in question by forging the sale deed on behalf of the original owner.

Learned counsel for the complainant argued that another FIR has been got registered against the present petitioner for forging the sale deed. Learned counsel for the complainant and learned State counsel argued that, in no way, from the FIR, it can be held that no cognizable offence is made out.

On the other hand, learned counsel for the petitioner mainly argued that the petitioner is a simple witness to the agreement to sell and no

case is made out against him. He also argued that the earnest money has been received by Bahadur Singh, the cheques etc. have been given by Bahadur Singh to return the earnest money. Learned counsel for the petitioner further argued that ₹1 Crore was paid to him after execution of the agreement and the complaint on the record shows that it was a loan transaction and has nothing to do with the agreement.

After hearing learned counsel for the parties and after going through the record, I find that the case is at preliminary stage and the investigation is still going on. The Investigating Officer is to collect the evidence. The complainant alleges conspiracy and connivance of the present petitioner in the cheating and fraud and preparing the forged documents which fact is corroborated as the present petitioner also got executed the sale deed regarding the property of which Bahadur Singh was not the owner and he purchased the property along with Bahadur Singh by forging sale deeds.

Learned counsel for the petitioner denies the fact about the conspiracy and connivance. Learned counsel for the complainant also stated that this cheating was at the instance of the present petitioner. Learned counsel for the petitioner also denies this fact. It is settled law that in the petition for quashing the FIR finding of fact cannot be given. As the investigation is still going on and the perusal of the record shows commission of cognizable offences in the FIR, therefore, the FIR in the present case, in no way, can be held as an abuse of the process of law or amounts to miscarriage of justice.

Therefore, finding no ground to quash the FIR in this petition,

the same is dismissed.

May 10, 2019. (Inderjit Singh)
Judge
hsp

NOTE: Whether speaking/reasoned: Yes
Whether reportable: No