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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P. (CRL) 1483/2020**

VIKAS MALHOTRA Petitioner

Through Mr Shantanu Singh, Advocate.

versus

STATE OF NCT OF DLEHI & ORS. Respondents

Through Mr Avi Singh, ASC for State

Mr Jatan Singh, Advocate for respondent no.2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **18.09.2020**

[Hearing held through video conferencing]

CRL.M.A. 12914/2020

1. Allowed, subject to all just exceptions.

W.P. (CRL) 1483/2020 & CRL.M.A. 12913/2020 (stay)

2. The petitioner has filed the present petition, *inter alia*, praying that FIR No. 518/2020 under Sections 384/34 of the IPC registered with PS Tilak Nagar be quashed.

3. The FIR in question was registered at the instance of Mr Ramesh Lal (complainant). The petitioner and the compainats are neighbours. The complainant alleges that the petitioner has been pursuing him for purchasing his property bearing No. S-2/225 GF, Old Mahavir Nagar. However, he did not wish to deal with the petitioner as the reputation of the petitioner was not good. He stated that subsequently he was approached by one Himanshu

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through a property dealer, who had agreed to purchase his property for a sum of ₹48,01,000/-. The complainant stated that he duly informed Himanshu that he had taken a loan from the LIC against the said property. And, Himanshu had stated that he would make the entire payment before execution of the sale deed so that the loan could be repaid or would clear the loan from the said consideration to be paid.

4. The complainant alleges that subsequently he became aware that Himanshu had been sent by the petitioner to lure the complainant to enter into the Agreement to Sell. The complainant alleges that the entire purpose was to induce the complainant to enter into an agreement to sell and thereafter, without paying the consideration involve the complainant in a false case.

5. Mr Jatan Singh, the learned counsel for the complainant submits that the complainant is still ready and willing to execute the necessary sale deed in favour of Himanshu on payment of the entire consideration and in the alternative to return the *bayana* received from him.

6. The complainant has also alleged that prior to the filing of the present FIR the petitioner had also got a false complaint made by a girl against his son, with PS Moti Nagar. He has stated that the term of the agreement to sell has since expired, but the petitioner is now pressurising the complainant to execute the sale deed registered in his favour.

7. Mr Avi Singh, learned ASC appearing for the State states that this is a *modus operandi* employed by the petitioner and he is already involved in several other cases of a similar kind.

8. According to the petitioner, he had entered into an agreement to sell to purchase the property in question, with one Himanshu and had also paid a sum of ₹13,00,000/- in cash. He relies upon an agreement to sell dated 13.03.2020 for the aforesaid purpose. The petitioner claims that in terms of the said agreement to sell, the petitioner had agreed to purchase the property in question for a sum of ₹49 lakhs on the representation made by Himanshu that he was the owner of the said property.

9. The petitioner has also filed a complaint against Himanshu, the complainant and other persons alleging that he was induced into entering into an agreement to purchase the property with Himanshu on 13.02.2020. Admittedly, the complainant is not a party to the agreement dated 13.03.2020.

10. It does appear from the above that the intention of the petitioner was to pressurise the complainant to accede to his demands. Mr Singh, learned counsel appearing for the petitioner submits that the allegations made in the FIR do not constitute an offence under Section 384/34 of the IPC and therefore, the FIR must be quashed.

11. This Court is not persuaded to accede to the aforesaid prayer at this stage. The complaint does appear to articulate the *bona fide* grievance of the complainant. Ms Avi Singh also submits that apart from an offence under section 384 of the IPC, the necessary provisions of the IPC would be invoked. The concerned Court has yet to examine whether there are grounds to charge the petitioner on the facts as disclosed.

12. The petitioner's claim that he has paid ₹13 lakhs in cash, *prima facie*,

also falls foul of the provisions of Income Tax Act, 1961.

13. At this stage, this Court does not consider it apposite to quash the FIR in question.

14. The petition is, accordingly, dismissed.

VIBHU BAKHRU, J

SEPTEMBER 18, 2020

pkv

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