

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 917 of 2021**

- Shatrughan Swarnkar S/o Late Rambali Prasad Swarnkar Aged About 65 Years
R/o Village- Amlidih Raipur Tahsil And District- Raipur, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Police Station- Kotwali Raigarh, District- Raigarh, Chhattisgarh
2. Vinod Agrawal S/o Late Mahavir Prasad Agrawal Aged About 55 Years Purana Sadar Bazar Raigarh Tahsil And District- Raigarh, Chhattisgarh (Complainant)

---- Respondents

For Petitioner	: Shri Vineet Kumar Pandey, Advocate
For Respondent/State	: Shri Aditya Tiwari, PL
For Respondent- 2	: Shri Sourabh Sharma and Shri Shailesh Tiwari, Advocates

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board**11.11.2021**

1. Petitioner has filed this petition seeking quashment of Annexure A1 FIR bearing No.0311 of 2021 registered against him for commission of offence under Section 420 of IPC.
2. Shri Vineet Kumar Pandey, learned counsel for the petitioner submits that petitioner and complainant/respondent- 2 entered into an agreement to sell immovable property situated in village Rupakhar, Tahsil Mainpaat, District- Surguja (Ambikapur) Khasra No.810, area 1.25 hectare of agriculture land for total consideration of Rs.1,01,00,000/- on 14.04.2018. On the date of execution of agreement, respondent- 2 gave Rs.5,00,000/- as advance. Petitioner executed sale deed for part of land, subject matter of agreement on 19.07.2018. Sale deed was executed only for 0.445 hectare, out of 1.25 hectare land and for one or the other reason, sale deed in respect of rest of land could not be executed. False and fabricated complaint was lodged

against petitioner making allegation that petitioner has cheated the complainant. He submits that the dispute, if any, between the parties as appearing from the contents of FIR, is of a Civil dispute. Even if considering entire contents of FIR is taken into consideration, it only mentions that complainant and petitioner entered into an agreement for sale of land and some amount was given as advance, for which, part of land has been executed. Complainant/respondent-2 cannot be allowed to use criminal law as a tool to pressurize the petitioner for selling entire land owned by him. Hence, FIR itself may be quashed as it does not reflect commission of any crime by the petitioner. In support of his contention, petitioner placed reliance on an order passed in Criminal Appeal- 932 of 2021 in the matter of **Randheer Singh Vs The State of UP and others**, decided on 02.09.2021 by Hon'ble Supreme Court.

3. Shri Aditya Tiwari, learned State counsel submits that based on complaint of cheating, FIR was registered on 05.03.2021. Crime registered by the Police is still under investigation and final report /charge-sheet is still to be filed before the Court of Judicial Magistrate.

4. Shri Sourabh Sharma, learned counsel for respondent-2/complainant would submit that petitioner entered into an agreement for sale of entire land bearing Khasra 810 for consideration of Rs.1,01,00,000/- and Rs.5,00,000/- was paid as advance on the date of execution of agreement to sell land and it was agreed between the parties that balance amount of sale consideration will be paid at the time of execution of sale deed. However, petitioner pressurized respondent to make further payment upon which payment has been made to the

petitioner under his own signature. Complainant has paid Rs.84 lakhs out of total consideration of Rs.1,01,00,000/-. Petitioner has not rebutted the document placed along with reply in any manner. Petitioner neither executed any sale deed nor returned money, which is sufficient to show the intent of petitioner. Police is investigating the case and collecting evidence. Hence, at this stage, FIR is not liable to be quashed when the Police is still investigating the complaint and Final Report/charge-sheet is yet to be filed. He placed reliance upon judgment passed by Hon'ble Supreme Court in cases of **Superintendent of Police, CBI and others Vs Tapan Kumar Singh**, (2003) 6 SCC 175, **State of Punjab Vs Dharam Singh And Others**, 1987 (Supp) SCC 89, **Kurushetra University Vs State of Haryana**, (1977) 4 SCC 451. He further submits that in aforementioned rulings, Court has deprecated exercise of inherent power of quashing of FIR when investigation is under process. Submission whether petitioner is involved in commission of offence under Section 420 of IPC or not can only be concluded after completion of investigation and filing of charge sheet/Final report.

5. Learned counsel for the petitioner only for the sake of argument, submits that even if the contention of respondent- 2 is taken as it is, then also dispute is of civil nature. He also denied submissions of learned counsel for respondent- 2 that such huge amount has been paid, but stated that the petitioner executed the sale deed of part of land in lieu of the amount received by him..

6. I have heard learned counsel for the parties.

7. Execution of agreement between the parties is not in dispute. It is not necessary that FIR must disclose all facts and details relating to offence reported but the fact that information discloses commission of cognizable offence. When there was many transactions between the parties, involvement of any person in commission of crime of cheating can only be considered on the basis of material collected, during investigation of the report and to arrive as to whether there was any intention of alleged commission of crime from the inception or not. It is not necessary that FIR must disclose all facts and details relating to offence reported but the information disclosing commission of cognizable offence.

8. Hon'ble Scupreme Court in case of **Superintendent of Police** (supra) has held thus:

“22. The High Court has also quashed the G.D. Entry and the investigation on the ground that the information did not disclose all the ingredients of the offence, as if the informant is obliged to reproduce the language of the section, which defines "criminal misconduct" in the [Prevention of Corruption Act](#). In our view the law does not require the mentioning of all the ingredients of the offence in the First Information Report. It is only after a complete investigation that it may be possible to say whether any offence is made out on the basis of evidence collected by the investigating agency.

9. In case of **State of Punjab** (supra) Hon'ble Supreme Court has held thus :

”1. This appeal by Special Leave is directed against an order of the High Court allowing a petition under Section 482 CrPC and quashing the first information report registered against the respondents and the

proceedings taken in pursuance thereof. The order of the High Court cannot be sustained because the police authorities are enjoined by law to register a case and conduct investigation whenever information is laid regarding the commission of cognizable offences. As such the quashing of a first information report will amount to restraining the police authorities from performing the duties enjoined upon them by law. The High Court has not been unaware of this position because it has stated in its order as follows :

"Insofar as the legal position is concerned it is well established that the first information report which sets into motion the investigational process can be quashed only in a case where the facts as alleged in the report, even if taken to be true, do not *prima facie* constitute an offence, meaning thereby that the first information report must disclose *prima facie* that a cognizable offence has been committed."

10. In case of **Kurukshetra University** (supra) Hon'ble Supreme Court has held thus :

"2. It surprises, us in the extreme that the High Court thought that in the exercise of its inherent powers under [Section 482](#) of the CrPC, it could quash a First Information Report. The police had not even commenced investigation into the complaint filed by the Warden of the University and no proceeding at all was pending in any court in pursuance of the F.I.R. It ought to be realized that inherent powers do not confer an arbitrary jurisdiction on the High Court to act according to whim or caprice. That statutory power has to be exercised sparingly, with circumspection and in the rarest of rare cases."

11. The submissions of learned counsel for petitioner for quashment of FIR cannot be accepted based only on the contents of FIR in view of counter submission of the respondent.

12. Case relied upon by petitioner relates to quashment of criminal proceedings, which is after filing of charge-sheet by Police before the Court of Judicial Magistrate. Hence, facts of that case are on different footing and at different stage of proceedings.

13. Considering the entirety of facts and circumstances of the case, as well as rulings of Hon'ble Supreme Court as mentioned above, I do not find it to be a fit case to allow petition at this stage.

14. Petition is liable to be and is hereby dismissed. It is made clear that the observation made in this order is only with respect to the submission of quashment of FIR, when Police is investigating the report. This order will not come in the way if petitioner intends to challenge the charge-sheet.

Sd/-
(Parth Prateem Sahu)
JUDGE

padma