

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103)

CRM-M-8568 of 2021

Date of Decision: 09.09.2021

Soran

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Karan Pathak, Advocate, for the petitioner.
Mr. Neeraj Poswal, AAG, Haryana

Amol Rattan Singh, J. (Oral)

On 15.03.2021, the following order had been passed:-

“CRM-7492 of 2021

By this application, the applicant-petitioner seeks to place on record the translated copies of 4 agreements of sale between him and the complainant, as Annexure P-8 collectively with the accompanying petition.

Since notice has still to be issued in the accompanying petition, no notice is required to be issued in this application, which is consequently allowed subject to all just exceptions and the translated copies of the aforesaid agreements of sale are ordered to be taken on record as Annexure P-8 collectively, alongwith the accompanying petition.

CRM-M-8568 of 2021

By this petition, the petitioner seeks the concession of anticipatory bail, upon FIR no.667, dated 6.9.2020, having been registered at Police Station Sadar, Bhiwani, alleging therein the commission of offences punishable under Sections 406, 420 and 506 of the IPC.

Mr.Rai, learned Senior Counsel appearing for the petitioner,

submits that, admittedly, out of the 4 agreements of sale relied upon by the complainant, 3 were registered agreements and therefore, even if what is contained therein is to be accepted at face value, to the effect that the earnest money shown to have been received by the petitioner, is accepted to have been so received, factually those agreements are from the years 2013 to 2015 and therefore even any penal clause in those agreements, to the effect that in case of non-execution of a sale deed the petitioner would be liable to pay double the amount of the earnest money paid by the complainant, is a clause that cannot be enforced by way of any civil proceedings after a period of 3 years has elapsed; i.e. the limitation to file a civil suit already stands expired.

He submits that therefore an FIR after 5 to 7 years of those agreements having taken place, cannot be the remedy to try and extract money from the petitioner.

Without making any comment on the aforesaid contention at this stage, the complainant in the FIR, i.e. Anangpal son of Ugarsain, resident of Village Chang, Tehsil and District Bhiwani, (as taken from the FIR), is ordered to be impleaded as respondent no.2 in the petition, with the Registry directed to carry out the necessary correction in the memo of parties.

Notice of motion.

Mr. Neeraj Poswal, learned AAG, Haryana, accepts notice at the asking of the court on behalf of respondent no.1, with respondent no.2 to be served by normal process, returnable on 20.4.2021.

In the meanwhile, the petitioner is directed to join investigation within one week from today and upon him so joining if he is sought to be arrested, he shall be released on bail, on his furnishing adequate bail and

surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate.

He shall also comply with all conditions stipulated in Section 438(2) of the Cr.P.C.

If the investigating officer does not actually join the petitioner in investigation, he would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation, in terms of the order of this court.”

Thereafter, the matter had been adjourned on April 20, 2021 with even the process fee for service of notice upon respondent no.2 not having been filed, after which, as recorded in the order dated 02.09.2021, the report of the Registry was to the effect that *dasti* notice issued to respondent no.2 had been received back served, but with the turn of the case having come up only after 4.00 p.m. neither counsel for the petitioner nor respondent no.2 had come present and the hearing in the matter was adjourned till today, with the matter ordered to be shown in the urgent motion list.

Today again, none appears for respondent no.2.

Upon query, learned State counsel, on instructions from ASI Sajjan Singh, submits that the petitioner in this petition has joined investigation and presently at least his custodial interrogation is not required.

That being so, without making any comment on the actual merits of the case, whatsoever, since the investigating agency itself does not require the custodial interrogation of the petitioner, this petition has in fact been rendered infructuous and is disposed of as such.

However, if the petitioners' custodial interrogation is required at any stage hereinafter, in the context of the FIR in question, he would be given 7 days notice before arrest, duly shown to be served upon him.

Naturally, if the complainant is aggrieved in any manner, of lack of proper investigation, he/she would be always at liberty to avail of his/her remedy as per law.

09.09.2021
vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking: Yes
Whether reportable: No