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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-22369-2021

Date of decision-05.07.2021

Kamlesh Rani and others

...Petitioners

Vs.

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Alok Mittal, Advocate for the petitioners.

MANOJ BAJAJ, J.

This petition has been filed under Section 482 Cr.P.C for quashing the FIR No.52 dated 25.03.2021 under Sections 406 and 420 Indian Penal Code, 1860 registered at Police Station Anaj Mandi Patiala, District Patiala, Punjab.

Learned counsel for the petitioners has argued that the allegations in the impugned FIR relate to the agreement to sell dated 25.10.2020 executed between petitioner (vendor) and complainant/respondent No.2 (vendee). He submits that property in question was agreed to be sold for a total sale consideration of Rs.29 lakhs and out of it, a sum of Rs.6 lakhs was received by petitioners as earnest money. It is pointed out by him that the sale deed was to be executed on or before 15.01.2021 after receipt of the balance sale

consideration, but the complainant had no money to purchase the property, therefore, he did not respond to the agreement. Learned counsel, further argued that the petitioner on her own extended the time for execution of sale deed up to 31.01.2021 through legal notice dated 18.01.2021 (Annexure P-7), but again the complainant failed to respond, therefore, the petitioner filed a suit for declaration on 01.02.2021 (Annexure P-9) against the respondent No.2 and others, seeking declaration regarding cancellation of agreement to sell etc., wherein defendants appeared on 22.03.2021, and thereafter, the impugned FIR was lodged to harass the petitioners.

During the course of hearing, it is not disputed by learned counsel for the petitioners that the investigation in the impugned FIR is in progress, however, the petitioners have been granted the concession of pre-arrest bail. It is further contended by him that the property is in the name of petitioner No.1 and petitioner Nos.2 and 3, who are her husband and son, respectively, have no concern with the said agreement to sell, therefore, their implication in the impugned FIR is nothing but an abuse of the process of law. According to him, the dispute is purely of civil nature and FIR deserves to be quashed.

It is also conceded by Mr. Alok Mittal, learned counsel that the contesting defendants have filed the written statement in the civil suit, but the same has not been placed on record.

After hearing learned counsel for the petitioners, this Court finds that the petitioner No.1 had issued the legal notice on 05.01.2021 i.e. even before the target date fixed for execution of sale deed and

called upon the purchaser to attend the office of Sub Registrar Patiala on 15.01.2021 for execution and registration of the sale deed upon payment of the balance sale consideration of Rs.23 lakhs. It was conveyed that the failure would result in cancellation of the agreement and forfeiture of the earnest money. The said notice dated 05.01.2021 (Annexure P-3) was responded by the complainant through registered post dated 08.01.2021 (Annexure P-4), who mentioned that the purchaser is ready with the balance sale consideration of Rs.23 lakhs by way of demand draft bearing No.000679 dated 07.01.2021 drawn at Axis Bank, but as the vendor did not disclose that she has also executed an agreement dated 13.10.2020 in favour of one Yashpal Kapoor, and in that regard a civil suit against her (petitioner No.1) is also pending. There is another reference of agreement dated 22.08.2020 with one Pankaj Verma son of Prem Verma and according to complainant these facts were not disclosed by the seller.

The above background of the case clearly indicates that at this stage, it will not be appropriate to accept the stand of the learned counsel for the petitioner that the complainant was not ready and willing to perform his part of the contract, and she (petitioner No.1) has rightly forfeited the earnest money of Rs.6 lakhs. According to the complainant, petitioners have made a wrongful gain of Rs. 6 lakhs and the allegations in the FIR *prima facie* disclose commission of cognizable offence, therefore, the FIR was registered.

Admittedly, the investigation in the impugned FIR is in progress, therefore, it would not be appropriate for this Court to accept

the argument of learned counsel that petitioner Nos.2 and 3 have been falsely implicated.

Resultantly, no ground is made out for exercise of inherent powers under Section 482 Cr.P.C at this stage.

Dismissed.

(MANOJ BAJAJ)
JUDGE

05.07.2021

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No