

120-3

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

CRM-M-20742-2022

Date of decision: 25.08.2022

Pankaj Sood and another

.....petitioners

Versus

Sanjeeev Sharma

....respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rahul Rampal, Advocate for the petitioners.

ANOOP CHITKARA, J.

Seeking quashing of criminal complaint vide NACT No.76 of 2021 dated 27.01.2021, filed under Section 138 of Negotiable Instruments Act, the accused has come up before this Court under Section 482 CrPC.

2. The first ground on which the petitioners seek quashing of the complaint is that he had handed over the cheques to the complainant at the time of entering into a memorandum of understanding as a security to show his bona fide as a builder. The petitioner(s) further claim that he is a builder by profession and the complainant had agreed to purchase a flat. For that purpose, they had entered into a memorandum of understanding and even the complainant had handed over a sum of Rs.6,75,000/- as earnest money. The petitioner's claim is that the complainant failed to honour the memorandum of understanding and make further payments and filed complaint against him, which has been decided vide order dated 22.01.2021 and in which, compensation has been paid to the complainant and further the petitioner has been directed to hand over the possession of the flat, complete in all respects.

3. Initially the petitioner's grievance is that the complainant instead of proceeding further to purchase the property, has entered into a memorandum of understanding and handing over the post dated cheques given as security and on the failure of encashment, launched prosecution against him.

4. A perusal of agreement to sell, nowhere refers/mentions about handing over about cheques on security by the purchaser. Even during the course of arguments learned counsel for the petitioner could not pointed out any clause in the memorandum of agreement where the cheques in question were mentioned.

5. Usually when a purchaser enters into an agreement to buy flats then it is the purchaser who would hand over the cheques' amount for outstanding payment. It is unusual that purchaser would hand over earnest money and the builder would hand

CRM-M-20742-2022

over blank cheques as security.

6. Be that as it may, there is no legal ground to disrupt the criminal prosecution at this stage. Consequently, the petition is dismissed. Pending applications, if any, stand disposed of.

7. *There would be no need for a certified copy of this order for furnishing bonds, and any Advocate for the Applicant can download this order along with case status from the official web page of this Court and attest it to be a true copy. In case the attesting officer wants to verify the authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.*

(ANOOP CHITKARA)
JUDGE

25.08.2022
anju rani

Whether speaking/reasoned: Yes
Whether reportable: NO.