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

CRM-M-25237-2021

Date of decision:17.05.2022

BALWINDER KAUR

...Petitioner

Versus

STATE OF PUNJAB AND ANR

...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Padam Sankhla, Advocate
for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab

Mr. A.K. Khunger, Advocate
for respondent No.2.

SURESHWAR THAKUR, J. (ORAL)

1. The petition FIR bears No.16 of 04.02.2020, and, was lodged at Police Station Khui Khera, District Fazilka, and, therein became embodied an offence, under Section 420 of the IPC. The instant petition has been filed under Section 439(2) of Cr.P.C., wherein the present petitioner seeks the cancellation of anticipatory bail, as became granted to accused one, Bhupinder Singh, by the learned Additional Sessions Judge, Fazilka through an order made, on 01.06.2020.

2. The petition FIR was lodged at the instance of Ranjit Singh, and, Gurcharan Singh, who became aggrieved by the execution of the registered deed of conveyance qua the petition property by Bhupinder Singh, and, others, in their favour, despite the fact, that earlier thereto, an agreement to sell with respect thereof, became validly entered into *inter-se*

Bhupinder Singh and others with, one Jagir Singh.

3. During the course of investigations being made into the FIR, one Bhupinder Singh instituted a bail petition bearing No.1129 of 2020, before the learned Additional Sessions Judge, Fazilka, and, through an order made thereon, on 01.06.2020, the accused Bhupinder Singh became accorded the indulgence of ad-interim bail. However, subsequently through an order made, on 15.04.2020, upon the bail petition, the earlier order of 01.06.2020, admitting one, Bhupinder Singh to interim bail became made absolute.

4. The order of 01.06.2020 is challenged before this Court, and, also through the instant petition, the learned counsel for the petitioner makes a submission, that the co-respondent No.2 herein, be ordered to be subjected to custodial interrogation, and/or, if the above order, for his being put to custodial interrogation, is not made, thereupon as a pre-condition for the co-respondent No.2, becoming enlarged on anticipatory bail, he be directed to deposit the earnest money quantified in a sum of Rs.24,75,000/-, in the establishment of the learned trial Judge concerned, for its working, as victim compensation, to be disbursed to the concerned, upon, the termination of the trial, as becomes entered into, by the learned trial Judge concerned, upon the petition FIR. Therefore, he submits that since the afore imperative condition became not embodied in the impugned order, hence it suffers from a grave, and, pervasive infirmity, and, it requires its being annulled, and, set aside.

5. Though, in respect of commission of penal offences appertaining to tainted financial transactions, from where a *prima-facie* valid argument may become reared by the victims-complainants concerned,

that this Court, may rather than acting as a recovery agent, for ensuring the indemnification of the amounts concerned, to the victims-complainants, rather may permissibly direct, the accused to make deposit thereof or of some percent thereof, in the establishment of the learned Magistrate concerned, for its ultimately, on termination of the trial concerned, working as victim compensation to the victims-complainants, but yet it may not, at the bail stage, without awaiting for the termination of the trial, rather direct, that the deposited sums of money being in contemporaneity to its/their deposit hence being forthwith released qua the victims-complainants.

6. Be that as it may, if the penal transaction appertaining to a failed agreement or a failed/void registered deed of conveyance, arises amongst, the victims-complainants concerned, and, the accused therein, and, also if certain sums of money(ies), are parted with, at the time of drawings, of the contract of sale concerned, besides when the dispute, in respect of any tainted contracts of sale, is either *subjudice* or becomes terminated, through a verdict being made by the learned Civil Court concerned, wherein, the accused, and, the victims-complainants, are also arrayed, either in the array of plaintiffs or in the array of defendants, thereupon, when the victims-complainants, can become suitably monetarily recompensed, through a verdict of a civil Court being made in their favour.

7. Consequently, in the wake of the above determinations being permissibly made by the learned Civil Courts concerned, thereupon, this Court may not take to make any peremptory directions, upon, the accused concerned, to as a pre-condition for the latter being enlarged on anticipatory bail or on regular bail, to make deposit of the money(ies) concerned, in the establishment of the learned trial Magistrate concerned.

8. Keeping in view the above, and, when it is evidently revealed, by a judgment, and, decree made by the learned Civil Judge (Junior Division), Fazilka in Civil Suit bearing No.615-1/24.07.2007, decided on 20.10.2012 wherein one, Jagir Singh is the plaintiff, and, in the array of defendants, are victims-complainants Ranjit Singh (since deceased), now substituted by his LR, and, also one, Gurcharan Singh, that in the above suit for specific performance, as became filed by one Jagir Singh against the above arrayed therein defendants amongst whom are the victims-complainants, and, further that the therein claimed relief of specific performance, becoming granted to Jagir Singh, and, also when it is also revealed, that the learned trial Judge, answered against the victims-complainants, the issue appertaining, to theirs being *bonafide* purchasers for credible consideration, of, the suit property. Therefore, the acceptance of or the granting of the declaratory relief of specific performance to one, Jagir Singh, and, denial to the victims-complainants, of relief qua their claim qua theirs being *bonafide* purchasers for value of the suit property, does *prima-facie* at his stage, rather spark(s) a conclusion, that, *prima-facie* the victims-complainants were in the know, that prior to the execution of the registered deed of conveyance, qua them, rather an agreement to sell in favour of Jagir Singh also existed. Therefore, the grievance raised in the petition FIR appears to be mis-founded. Since two appeals against the afore drawn verdict by the learned Civil Judge (Junior Division), Fazilka, upon the above civil suit, became constituted inasmuch as, one by Bhupinder Singh-vendor, before the learned First Appellate Court, and, wherein the victims-complainants, in the petition FIR were also arrayed, as co-respondents alongwith others, and, also thereagainst a first appeal became also reared by

by victims-complainants Ranjit Singh and Gurcharan Singh, and, when both the apposite Regular First Appeals, became dismissed by the learned First Appellate Court concerned, thereupon *prima-facie*, at this stage, the above made conclusions, do yet, continue to hold vigour. Moreover, since it is also stated at the bar, by the learned counsels for the contesting litigants, that the RSA instituted before this Court, at the instance of the vendor, in the registered deed of conveyance inasmuch as, by one, Bhupinder Singh and others also became dismissed, and, when it is not demonstrated before this Court, that the above verdict, has either been annulled or its operation has been stayed by the Hon'ble Apex Court. In sequel the verdict of dismissal, as made by this Court, upon the RSA preferred before this Court by one Bhupinder Singh, and others, acquires conclusive, and, binding effect. Therefore, the earlier thereto verdicts made upon the plaintiff's suit for specific performance of the agreement to sell entered into *inter-se* Bhupinder Singh, and, Jagir Singh acquires all requisite binding, and, conclusive effect. However, at this stage, it is stated at the bar, by the learned counsel for the petitioner herein, that the RSA preferred at the instance of Ranjit Singh (since deceased) substituted by his LR, and, Gurcharan Singh, the vendees in the registered deed of conveyance, is still *subjudice*. However, the factum of the above pendency of the RSA, and, when, though it was the duty of the learned counsels concerned, to ensure the clubbing of both the RSAs, as became instituted before this Court, at the instance of Bhupinder Singh and others, and, also at the instance of Ranjit Singh (since deceased) now substituted by his LR, and, Gurcharan Singh for hence common verdicts, being made thereon, and, necessarily to obviate the making(s) of conflicting verdicts thereon(s). Yet it appears, that for want of

discharging of duties by the learned counsels concerned, the earlier RSA filed by Bhupinder Singh and others against Jagir Singh, the recipient of a decree of specific performance upon his suit, has been decided, and, the RSA filed by Ranjit Singh (since deceased) substituted by his LR, and, Gurcharan Singh, who are the vendees in the registered deed of conveyance, has remained yet *subjudice* before this Court, and, hence there may be every likelihood of a decision being made thereon, rather possibly conflicting with the earlier thereto verdict of dismissal of Bhupinder Singh and others' RSA, as, instituted against Jagir Singh.

9. The effect of the above is to be determined only by the RSA Court concerned.

10. Nonetheless even if the RSA filed by Ranjit Singh (now deceased) substituted by his LR, and, of Gurcharan Singh is *subjudice* before this Court, and, even if assumingly, the above appellants are not successful in their challenge, to the verdict, and, decree of specific performance, as made, by both the learned Courts below qua Jagir Singh, but yet learned RSA Court, may in its wisdom contemplate to monetarily recompense the victims-complainants Ranjit Singh, and, Gurcharan Singh, through, a decree *in tandem* thereof being made by it. Consequently, and, if so, since it is a purely civil dispute, which has travelled upto this Court, and, when monetary compensation(s) are available to be only decreed to the victims-complainants, by the learned RSA Court. Consequently, this Court does not deem it fit, and, appropriate, to agree with the arguments made before this Court, by the learned counsel for the petitioner, that yet some monetary compensation rather equivalent to the amount of sale consideration as paid to the vendor, at the time of execution of the

registered deed of conveyance in their favour, be ordered to be deposited, in the establishment of the learned trial Judge concerned, for its working as victim compensation, upon, termination of the trial, as becomes entered into by the learned trial Judge concerned, at the petition FIR, nor hence any non makings of any order in respect thereof, by the learned Additional Sessions Judge, Fazilka, can be construed to be stained with any vice of any legal fallacy.

11. The petition stands dismissed.

12. This order is only for the disposal of the petition, and, shall have no bearings on the merits of the case.

(SURESHWAR THAKUR)
JUDGE

17.05.2022

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Whether speaking/reasoned:- Yes/No

Whether reportable: Yes/No