

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

**CRM-M No.48082 of 2017**

**Date of decision: 27.07.2022**

**Dhani Ram and another**

**.....Petitioners**

**versus**

**State of Haryana and another**

**.....Respondents**

**CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ**

**\*\*\*\*\***

Present:- Mr. Deepam Raghava, Advocate  
for the petitioners.

Mr. Ramesh Kumar Ambavta, Asstt. A.G., Haryana.

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**VINOD S. BHARDWAJ, J. (Oral)**

The instant petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No.71, dated 31.05.2017, registered under Sections 420 and 406 IPC, at Police Station Shivaji Nagar, Gurugram (Haryana).

Reply by way of affidavit of Rejender Singh, HPS, Assistant Commissioner of Police, City Gurugram has been filed today in the Court. Copy thereof has already been furnished to learned counsel for the petitioners. The relevant extract thereof reads as under:-

*“1. That the present petition is not maintainable. Based upon the allegations as set out in the petition, the petitioners are not entitled to approach this Hon'ble Court by way of filing the present petition under Section 482 Cr.P.C. for quashing the FIR. Even otherwise no question of law is involved in the present matter which requires*

*adjudication from this Hon'ble Court. The facts of the case are verified through investigation/trial. After conducting the investigation of case bearing FIR No.71 dated 31.05.2017 under Section 406, 420 IPC Police Station Shivaji Nagar, Gurugram the petitioners were joined in the investigation on 04.10.2017. After completing the investigation, the report under Section 173(2) Cr.P.C. against the petitioners was submitted in the Court of Learned Chief Judicial Magistrate, Gurugram on 04.12.2017 as sufficient incriminating evidence came forth against them. Thus the petitioners are not entitled to approach this Hon'ble Court to get the present FIR and consequential proceedings quashed and the present petition is liable to be dismissed on this score alone.*

2. *That the brief facts of the case are that the complainant/respondent No.2 got registered the FIR against the petitioners on the allegations mentioned in the FIR which has been annexed as Annexure P-1 with the present petition. However, it is submitted that the petitioners had entered into an agreement with respondent No.2 to sell their property to respondent No.2 for a sale consideration of Rs.40 Lakhs. The respondent No.2 paid the full amount of sale consideration to the petitioners. However, despite repeated requests, the petitioners did not get the sale deed executed. After some time, a meeting was called between the petitioners and respondent No.2 in the presence of some of their common friends, in which it was disclosed by the petitioners that they have already sold their property to one Kaushalya Devi wife of Nepal Singh and they have also handed over the possession of the said property to said Kaushalya Devi. The petitioners also handed over a post dated*

*cheque bearing No.379907 dated 09.04.2016 amounting to Rs.40 Lakhs, which was dishonored on its presentation by the respondent No.2. Neither the petitioners returned the amount to the respondent No.2 nor they get the sale deed executed. On the basis of above allegations, the present FIR was registered.*

*During the course of investigation the petitioners were joined in the investigation on 04.10.2017 as they were on anticipatory bail granted by the court of Learned Additional Sessions Judge, Gurugram vide orders dated 21.09.2017. Their disclosure statements were recorded when they were formally arrested as incriminating evidence came forth against them. After completion of investigation, the report under Section 173(2) Cr.P.C. against the petitioners was submitted in the court of Learned Illaqa Magistrate, Gurugram on 04.12.2017. The charges against the petitioners have been framed by the trial Court vide orders dated 06.04.2018. Now the trial of case is pending in the Court of Learned Chief Judicial Magistrate, Gurugram and is fixed for 26.08.2022 for prosecution witnesses. There are total 09 PWs in the present case out of them 03 PWs have been examined by the trial Court date. The petitioners have not been declared proclaimed offender in the present case. There is no other accused in the present FIR.”*

A perusal of the same shows that upon filing of the final report under Section 173(2) Cr.P.C., the charge has already been framed by the trial Court vide order dated 06.04.2018 and 03 prosecution witnesses out of a total of 09 prosecution witnesses have already been examined.

Faced with the above, learned counsel for the petitioners seeks withdrawal of the present petition with liberty to take all pleas before the trial Court at an appropriate stage.

Dismissed as withdrawn with liberty as aforesaid.

(VINOD S. BHARDWAJ)  
JUDGE

27.07.2022  
*rittu*

*Whether speaking/reasoned* : *Yes/No*  
*Whether reportable* : *Yes/No*