

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

CRM-M-39816-2022

DECIDED ON: 2nd SEPTEMBER, 2022

RAHUL MEHRA

.....PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Ms. Manju Goyal, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

Prayer in this petition, filed under Section 482 of the Code of Criminal Procedure, is for quashing of FIR No.37, dated 01.03.2019, registered under Sections 406 and 420 of the Indian Penal Code 1860, at Police Station Kharar, District SAS Nagar and all proceedings arising therefrom.

Brief facts of the case are that the complainant-Subhash Chander Basu alongwith his brother Sharat Chandra Basu jointly booked two commercial plots for shops in the project "Gulmohar Valley-I" located at Lalru Near Chandigarh-Ambala Highway, being promoted by respondent No.3. The total consideration against 1st Commercial Plot was fixed @ Rs.6,00,000/- while against 2nd Commercial Plot, the sale consideration was Rs.4,95,000/-. Subsequently, part payments were made in respect of above 1st and 2nd bookings and upto 24.12.2017 a total sum of Rs.5,25,000/- against the said commercial plots had been paid by the

the single booking of plot because only one plot was available in the project. Despite various correspondences neither any buyers agreement was executed nor any allotment was made in respect of the said booking of plot. On the basis of enquiry made by the complainant from RERA office, it transpired that the project of the case in hand was being developed by Punjab Empires Pvt. Ltd, while Dara Group had at certain stage been marketing the said project.

Learned counsel for the petitioner submits that the matter is purely of civil nature and a criminal colour has been given by the complainant in connivance with the police officials in order to harass and humiliate the petitioner. He further submits that respondent No.3 is still ready to refund the amount to the complainant. The petitioner has already retired from the company and is not the Director anymore. He submits that all the payments as alleged received by the complainant have been made to respondent No.3. Assertion is that a bare perusal of FIR clearly shows that no offence is made out against the petitioner, therefore, the present petition be allowed and the FIR, being an abuse of the process of law, be quashed.

Heard.

Before proceeding further, it would be appropriate to mention that investigation is complete, the final report has been filed and charges have been framed against the petitioner. A salutary principle that governs the exercise of inherent power is that where the trial court, has proceeded to frame charges, the High Court would generally desist from quashing the FIR.

A perusal of the FIR, leaves no manner of doubt that a prima facie case of forgery and fraud is made out against the petitioner. The

complainant alleged that he alongwith his brother booked two flats in the project 'Gulmohar Valley-I' Lalru. From the perusal of record it transpired that the project "Gulmohar Valley and Gulmohar-II located in Kauli Majra, Derabassi was promoted by promoter Punjab Empires Pvt. Ltd (respondent No.3) in the name and style of "The D Homes Gulmohar Residency". The directors of this company are mentioned as Sh. Rahul Mehra (petitioner) and Sh. Randhir Sood. It also transpired that M/s Dara Buildtech Pvt. Ltd also promoted one project "Dara Gardens" in SAS Nagar and the Director of the said company was Rahul Mehra (petitioner). Even the complainant had issued cheques in the name of Dara Buildtech & Developers Pvt. Ltd.

It is worthwhile to mention here that to express their willingness, to settle the dispute, an application dated 06.12.2021 was moved for placing on record the demand draft amounting to Rs.5,25,000/- dated 15.11.2021 in the name of complainant, by the petitioner and it is also admitted the petitioner having made statement before the police authorities, regarding their willingness to settle the dispute by returning the amount so received from the complainant.

In view of above facts it is apparent that the petitioner accepted the money from the complainant for booking of the property in the project Gulmohar Valley-1 being promoted by Punjab Empire Pvt. Ltd in the capacity of being the Director of the company.

Moreover, the Real Estate Regulatory Authority, Punjab vide its order dated 08.08.2022 has directed the petitioner and respondent No.3 to pay the compensation amount to the complainant within sixty days, failing which he shall also be liable to pay interest on the principal amount of Rs.60,000/- @ 9.80% per annum till its realization.

It would be necessary to mention here that after investigation, the police has filed the final report before the trial court, against the petitioner. Charges have been framed and the trial is in progress. The petitioner has, however, failed to impugn the final report or the order framing charges, which will be the remedy available to him at this stage.

In view of what has been stated hereinabove, I find no reason in the exercise of inherent powers to quash the FIR and consequently dismiss the present petition.

2nd SEPTEMBER, 2022
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(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>