

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

280

CRM-M-10367-2016 (O&M)

Date of decision: 03.08.2023

Ashok Kumar and another

...Petitioners

VS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Yogesh Goyal, Advocate,
for the petitioners.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

Mr. Sachin Mittal, Advocate,
for respondent no.2.

ARUN MONGA, J. (ORAL)

Petitioners seek quashing of FIR No.333 dated 27.07.2015 (Annexure P-5) registered under Sections 120-B, 420, 406 read with Section 34 of IPC, at Police Station, Khaidki Doula, District Gurgaon.

2. FIR was registered on the complaint of respondent no.2, the contents of which are reproduced hereinbelow:-

“XXXXX Ved Parkash S/o Late Sh. Shobha Ram is permanent resident of H. No. 210/4 Maria Gurgaon, Tehsil and District Gurgaon. On 06.02.2010, Ved Parkash and Ashok Kumar both sons of Sh. Bhajan Lal S/o Sh. Thakan Dass resident of Railway Road, Minar Gate, Arora Tent House, Palwal came to me and had said that our Bhua Smt. Nandi Bai was issueless and she was living with us from the year 1947 and only we had take care and made service to her and we are her natural legal successors and the land of our Bhua is situated at village Sihi, District Gurgaon and we have a right to sale the same. The agreement regarding land of village Sihi was entered for a total consideration of Rs. 1,40,000/- and regarding this Rs. 40,000/- has been received as an earnest money in the following shapes:- Rs. 10,000/- through cheque No. 805967 issued by Indian Overseas Bank, Rs. 10,000/- through cheque No. 805968 issued by Indian Overseas Bank and Rs. 20,000/- cash in this way received Rs. 40,000/- total and they had said to execute a sale deed in my favour after the mutation in their favour and after receiving the succession certificate from the court and they had taken Rs. 1,00,000/- on account of the expenses incurred in the court and had not given any receipt. In this regard for the purpose of succession certificate, a case was filed in the court on 27.07.2015 in the court of Sh. Ashwani Kumar, CJM Palwal Court and regarding mutation on 18.06.2015 as per the Patwar record mutation was entered vide mutation No. 2787 and repeatedly said these persons to execute sale deed in m favour but both the party Sh. Ved Parkash and Ashok had said that they had not received the

papers of revenue record and we will inform you and will execute the registering in your favour. Now had came to know that by making a conspiracy and with a motive to grab my money they had made the mutation No. 2787 as disputed and they had also made dismissal of the suit filed for the purpose of succession certificate and regarding this no information was given to me and the land was sold to Sh. Raj Kumar for more money and there are making a statement in the favour of Sh. Raj Kumar in court proceedings. When came to know about these facts that the first party i.e. Sh. Ashok Kumar and Ved Parkash had sold the land to Shri. Raj Kumar for a consideration of Rs. 15 lacs in spite of entering an agreement to sell with me, and in this way by making a mutation disputed and by selling the property of some other person to Sh. Raj Kumar and these Ashok Kumar and Ved Parkash are doing cheating and forgery with me. Strict legal action may kindly be taken against these persons. Sd/- Sh. Ved Parkash S/o Late Sh. Shobha Ram."

3. Learned counsel for the petitioners submits that petitioners have been falsely implicated in the case. No offence as alleged in the FIR is made out against the petitioners under Sections 120-B, 420, 406 read with Section 34 of IPC. They have been involved in the present FIR just to blackmail them. He further submits that remedy available with the complainant is to file suit for specific performance and not to lodge any criminal proceedings.

4. Per contra, learned State counsel, opposes quashing of the petition. He submits that there are total 12 prosecution witnesses, out of which 6 have already been examined by the prosecution.

5. I have heard the rival contentions of the respective learned counsel for the parties.

6. In the course of hearing, it transpires that more than half of the trial is complete and is at the stage of examination of prosecution witnesses, wherein 6 out of total 12 have already been examined by learned trial Court. At this stage, this Court would refrain from quashing the FIR. In case the petitioners are innocent, needless to say that, they would be acquitted. Moreover, there are disputed questions of facts which cannot be gone into by this Court under Section 482 Cr.P.C. without evidence led by both parties.

7. However, it is made clear that personal presence of the petitioners shall not be insisted upon unless and until their statements are to be recorded by learned trial Court.
8. Disposed of accordingly with direction to learned trial Court to proceed with the trial expeditiously.
9. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

03.08.2023
'D'Vir/R

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