

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

274

CRM-M-17193-2021

Date of Decision: 14.11.2023

Ashok Maggu

..... **Petitioner**

Versus

State of Haryana and another

..... **Respondents****CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT**

Present: Mr. Kartik Gupta, Advocate for the petitioner.

Mr. Krishan K. Chahal, Addl. A.G., Haryana.

Mr. Sikandh Mehta, Advocate, for
Mr. Pankaj Bali, Advocate for respondent No.2.

RAJBIR SEHRAWAT, J. (ORAL)

1. Present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.1060 dated 24.12.2018 registered under Sections 406, 420 and 120-B IPC, at Police Station Karnal Civil Lines, District Karnal and all subsequent proceedings arising therefrom.

2. Status report as well as the reply filed by the State is taken on record.

3. It is submitted by learned counsel for the petitioner, that the FIR against the petitioner was relating to the property which was the subject matter of the agreement to sell dated 02.03.2016 in favour of the complainant by the co-accused Sushma Shingari. However, in the said agreement to sell, the petitioner was neither the seller nor the purchaser, nor was the signatory, and was not even the witness to or the beneficiary in any manner. Moreover, after lodging of the FIR, the complainant had also filed a civil suit No.3595 dated 23.08.2018 against Sushma and others for specific performance of the above said agreement to sell. However, he has withdrawn the said civil suit,

vide order dated 06.11.2020. Hence, it is submitted by learned counsel for the petitioner that; although there had been no case against the petitioner even in the first instance, and now the complainant has already withdrawn the civil suit qua the said property and thus, has relinquished his claim qua the property altogether. Hence, no offence survives anymore. Moreover; the said property has even been sold further by Sushma and another co-sharers and thus, the subject matter of the alleged offence itself is now legally transferred to a third person. Hence, the said FIR be quashed against the petitioner; being an unnecessary harassment.

4. On the other hand, learned State counsel being instructed by HC Krishan, has submitted that the police had investigated the case and had filed the challan. As per the investigation of the police, the police had found some substance in the allegations levelled by the complainant that the petitioner along with other co-accused had tried to usurp the money paid by the complainant by not getting the sale deed executed in his favour. Rather, the present petitioner was trying to get the property transferred in his name. The police had found electronic material in the form of exchange of whatsapp messages to support the assertions made by the complainant. However, counsel for the State has not been in a position to dispute the fact that the complainant has, subsequently, even withdrawn the suit filed by him for specific performance of the agreement to sell in question.

5. Learned counsel appearing for the complainant has submitted that the complaint was rightly made to the police that he was being constantly threatened by the petitioner with a view to usurp the property. Otherwise, learned counsel appearing for the complainant is also not in a position to dispute the fact that the complainant has withdrawn the civil suit filed for specific performance of the agreement to sell and had not asserted his rights

qua the said property any more. It is also not disputed by the counsel for the complainant that as of now, he has not staked any claim qua the property in dispute and that the property already stands transferred to Ramphal Dangri, vide sale deed dated 16.11.2020.

6. Having heard learned counsel for the parties, this Court finds that the entire dispute, which is the basis for registration of FIR had been the property qua when the agreement to sell dated 16.11.2020 was alleged. The complainant after lodging the present FIR, he was still continuing with his suit for specific performance qua the said property. However subsequently, the complainant himself has withdrawn the suit, meaning thereby, that he had relinquished all claims qua the said property. Moreover, the property in question has already gone to a third party through a subsequent sale deed, which is not challenged anywhere. Therefore, the property which was the cause of dispute, is not with either the complainant or with the petitioner or even with the person who had executed the alleged agreement to sell with the complainant. Hence, the dispute regarding that, cannot survive between the parties any more.

7. In view of above, this Court is of the considered view that it would be fully justified to quash the FIR in question and all the subsequent proceedings arising thereto.

8. Accordingly, the instant petition is allowed. Consequently, the FIR No.1060 dated 24.12.2018 registered under Sections 406, 420 and 120-B IPC, at Police Station Karnal Civil Lines, District Karnal and all other consequential proceedings arising therefrom are hereby quashed, qua the petitioner only.

14.11.2023
D.Bansal

(RAJBIR SEHRAWAT)
JUDGE