

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

259

CRM-M-34182-2018 (O&M)

Date of decision: 12.04.2023

NIRMAL KAUR & ANR

....Petitioners

Versus

STATE OF PUNJAB & ANR

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. N.K. Manchanda, Advocate for the petitioners

Mr. H.S. Sullar, Sr. DAG Punjab

Mr. Rajdeep Singh Gill, Advocate for respondent No.2

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.25 dated 22.01.2014, Annexure P-1, registered under Sections 420, 120-B of IPC at Police Station City Sangrur, District Sangrur along with all other consequential proceedings arising therefrom.

2. Succinctly, the facts of the case are that the petitioner No.1 entered into an agreement to sell with the respondent No.2 on 26.02.2013 regarding sale of house measuring 05 Marla 7-1/2 Sarsahis for Rs.26 Lakhs situated at Shaheed Bhagat Singh Nagar, Moga. Rs. 18 Lakhs was paid to petitioner No.1 by respondent No.2 as earnest money. As per the agreement to sell, the date fixed for execution of the sale deed was 15.05.2023, however as on the said date petitioner No.1 did not come to the office of Tehsildar, Moga. She along with Jaspal Singh executed another sale deed of the same property in favour of petitioner No.2 on

01.03.2013. Thereafter, respondent No.2 lodged the FIR on 22.01.2014 under Sections 120-B and 420, IPC at Police Station City Sangrur, District Sangrur.

3. Learned counsel for the petitioners would submit that in terms of the settlement arrived between the parties before the Mediation and Conciliation Centre of this Court on 09.12.2016, Annexure P-2, the sale deed has been executed in favour of respondent No.2 on 10.01.2017, Annexure P-3, however, the complainant-respondent No.2 had backed out of the same, thus the present petition was filed for quashing of the FIR on merits after the CRM-M-10427-2017 filed for quashing of FIR based on above compromise, was disposed of vide order dated 16.01.2018 by this Court granting liberty to file a fresh petition. But now the complainant-respondent No.2 has come around and paid the outstanding amount of Rs. 40,000/-, which has been received by petitioner No.1 in the Court today, thus, the present FIR deserves to be quashed. He submits that the challan was presented on 31.10.2018.

4. Learned counsel for respondent No.2-complainant submits that he has instructions from his client that he has no objection if the FIR is quashed, in view of the compromise.

5. Heard.

6. The factual position in the present case reveals that the genesis of the dispute involved is essentially of civil nature given a criminal texture. The ingredients of the offences are also not made out, considering the final report and there is a settlement that has been arrived at between the parties, consequent to which respondent No.2 has paid the balance amount today in Court to the petitioner. Furthermore, the complainant-respondent No.2 stated that he has no

objection to quashing of the FIR.

7. It would be profitable to refer to the judgments of Hon'ble The Supreme Court in the cases of **Usha Chakraborty and another vs. State of West Bengal and another**, 2023 SCC OnLine SC 90, **R. Nagender Yadav vs. State of Telangana**, (2023) 2 SCC 195, and **G. Sagar Suri vs. State of U.P. and others**, (2000) 2 SCC 636, wherein it was observed that, the High Court in exercise of its jurisdiction under Section 482 Cr.P.C., is to see if a matter essentially of civil nature has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Whether a complaint discloses a criminal offence or not, depends upon the nature of the act alleged thereunder, and the essential ingredients of a criminal offence are present or not, has to be judged by the High Court.

8. In **Parbatbhai Aahir Alias Parbatbhai Bhimsinhbhai Karmur and others vs. State Gujarat and others**, (2017) 9 SCC 641, Hon'ble The Supreme Court held that, as distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned. In exercise of the wide and plentitude inherent power under Section 482 Cr.P.C., to secure the ends of justice, or to prevent an abuse of the process of any Court, a criminal proceeding or complaint should be quashed.

9. Considering the peculiar facts of the case and bearing in mind the enunciation of law in the foregoing pronouncements, this Court finds that the continuation of proceedings against the petitioners in the aforesaid circumstances

would be an abuse of the process of the Court.

10. Resultantly, the present petition is allowed and FIR No.25 dated 22.01.2014, Annexure P-1, registered under Sections 420, 120-B of the IPC at Police Station City Sangrur, District Sangrur and all consequential proceedings arising therefrom, are quashed qua the petitioners.

(AMAN CHAUDHARY)
JUDGE

April 12, 2023
S.Sharma(syr)

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