

Pronounced on: 16.10.2023

...Respondent

subject to clearance of dues from Punjab National Bank by the seller on 8.52
of accuracy and of this document

the property and also subject to providing of the NOC etc. However,

when complainant demanded these documents from the accused-petitioners, they continued to linger on the matter on one or other pretext and thus, had cheated him.

3. It is contended by learned counsel for the petitioners that it is petitioner No.2, who had executed agreement to sell dated 07.03.2022 with the complainant. Petitioner No.1 is only a witness to the said agreement. Learned counsel contends that before the target date for registration of the sale deed, petitioner No.2 had already taken NOC from Punjab National Bank, copy of which is Annexure P.5. However, it is the complainant, who failed to perform his part of contract, though petitioner No.2 was always ready and willing to do so. Learned counsel further contends that prior to registration of the present FIR, an inquiry was marked to Economic Offences Wing, Ludhiana and in the said inquiry, the complaint was found to be false and the same was recommended to be consigned. Still further, it is contended that both the petitioners are ready to join the investigation.

4. Complainant – Bharat Bhushan put in through his counsel. As per order dated 13.12.2022 and then vide order dated 27.1.2023, the Court found that there were chances of compromise and so, referred the matter to the Mediation and Conciliation Centre of this Court. In the meantime, arrest of the petitioners was directed to be stayed.

5. On 22.02.2023, following order was passed by this Court: -

“Petitioners and complainant are present in person.

On the request of learned counsel for the parties, the
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matter was sent to the Mediation and Conciliation of this Court vide order dated 27.01.2023. The parties appeared before the Mediation Centre but no amicable settlement arrived at between the parties.

Learned counsel for the petitioners submits that with regard to the NOC, there is already a clause in the agreement to sell that the complainant/purchaser shall not press for the NOC.

Learned counsel for the complainant submits that a sum of Rs.1,85,000/- approx. is outstanding towards the Greater Ludhiana Development Authority which is to be deposited by the petitioner-seller. He further submits that the complainant/purchaser is ready to perform his part for registration of sale deed by paying the remaining amount of Rs.40 lakh + 2.75 lakh (Rupees Forty Lakh Only + Rupees Two Lakh Seventy Five Thousand Only) (as agreed between the parties on 27.01.2023 in this Court) on the date of registration and for the remaining amount of Rs.2.75 lakh (Rupees Two Lakh Seventy Five Thousand Only), a post dated cheque after a period of two months from the date of registration will be given by the complainant to the petitioner on the said date.

Adjourned to 24.03.2023.

Needful be done by both the parties before the next date of hearing.”

6. The afore-said order was not complied with. Later on, as per order dated 13.07.2023, it was agreed between the parties that both of them shall appear before the Registration Authority on 04.08.2023 for

making compliance of the order dated 22.02.2023. Matter was accordingly adjourned to 24.08.2023.

7. On the adjourned date of 24.08.2023, it was informed by learned counsel for the petitioners that though the petitioners appeared before the Registration Authority as per order dated 13.07.2023 but the complainant was not ready with the balance amount. Without refuting the said contention, learned counsel for the complainant requested to dispose of the matter on merits.

8. Learned counsel for both the sides have been heard.

9. As is evident from the mere contents of the FIR, prima-facie the entire matter appears to be of civil in nature. During arguments, it has been conceded by learned counsel for the complainant that till date, no suit for specific performance has been filed by the complainant on the basis of agreement to sell in question. Despite the fact that parties agreed to appear before the Registration Authority for getting the sale deed registered as per order dated 22.02.2023, it is the complainant, who retracted his steps and failed to get the sale deed executed in his favour as he was not having balance amount to pay.

10. Taking into account all the aforesaid facts and circumstances, but without commenting anything on the merits of the case, the present petition is allowed. The petitioners are granted concession of anticipatory bail. It is directed that in event of their arrest, the petitioners shall be released on bail by the Investigating Officer subject to their furnishing

bail bonds/ surety bonds to the satisfaction of Investigating Officer.

However, it is further directed that the petitioners shall join the investigation as and when so required by the Investigating Officer. They shall further comply with the conditions stipulated in Section 438(2) Cr.P.C.

October 16, 2023

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(DEEPAK GUPTA)

JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No