

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

CRM-A-79-2023

Date of decision: 15.04.2024

VINOD KUMAR

...APPLICANT

Versus

DINESH KUMAR AND ANOTHER

...RESPONDENTS

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr.V.S. Rana, Advocate
for the applicant.

PANKAJ JAIN, J (Oral);

1. Complainant seeks leave to appeal against judgment dated 21.07.2022, whereby the complaint preferred by the applicant against the respondents for offence under Sections 420, 467, 468, 471, 506 and 120-B IPC registered at P.S. Ellenabad, stands dismissed thereby discharging the respondents.

2. As per allegation leveled in the complaint, the complainant claims that an agreement to sell dated 08.08.2013 was executed in his favour by the respondents qua land. As per the agreed terms thereof the sale deed was to be executed on or before 10.03.2014. The complainant claims that though he appeared before the Sub-Registrar on the date fixed but the accused failed to appear despite having received Rs.6,00,000/-, as earnest money. Instead of executing the sale deed in favour of the applicant/complainant, the accused rather transferred the land in favour of his own wife on 14.11.2014.

3. The complaint was dismissed by the trial Court holding that it was not in dispute that on the date, the agreement to sell was executed by

the respondents, respondent No.1/accused was owner of the property and even on the appointed date, he remained owner and was competent to execute the sale deed. Thus there was no allegation that the respondents had intended to deceive complainant from the beginning. No offence of cheating withing the meaning of Section 405 of the Indian Penal Code is made out.

4. While assailing the judgment Mr.V.S. Rana, Advocate, submits that the cheating is evident from the facts of the case as the respondents despite having received the earnest amount failed to appear before the Sub Registrar on the above said date.

5. I have heard learned counsel for the applicant and after going through the paper-book, this Court finds that it is a case of mere breach of the terms of the contract. On being asked as to whether the applicant filed any suit for specific performance, Mr.V.S. Rana, Advocate, fairly submits that no such *lis* was initiated by the petitioner.

6. In view of the above, this Court does not find it a case for grant of leave to appeal as the view taken by the trial Court cannot be said to be improbable.

7. In view of the above, the present appeal seeking leave to appeal is dismissed.

(PANKAJ JAIN)
JUDGE

15.04.2024
monika

Whether reasoned/speaking?	Yes
Whether reportable?	No