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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of Decision : May 13, 2024

PRIYA SHUB

-PETITIONER

V/S

STATE OF PUNJAB

-RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Gurbir Singh Sidhu, Advocate
for the petitioner.

Mr. Pardeep Bajaj, D.A.G., Punjab.

Mr. Sandeep Gahlawat, Advocate
for the complainant.

KULDEEP TIWARI, J. (ORAL)

1. On 20.12.2023, this Court had passed the hereinafter extracted order, upon the instant petition:-

“On 7.11.2023, the following order was passed:-

“The allegations against the petitioner are that she along with other co-accused failed to honour the agreement to sell of property, which was entered on 10.12.2021.

Primarily, the allegations against the petitioner are of civil nature and the moot question, “whether the intention of the petitioner while entering into agreement to sell was dishonest” is to be decided at the time of trial.

Notice of motion.

Mr. Kunwarbir, Singh DAG, Punjab, waives service on behalf of respondent-State whereas, Mr. Sandeep Gahlawat, Advocate, has appeared on behalf of the complainant.

Both the learned counsel for the parties are ad-idem that the matter can be amicably resolved and the same may be sent to the Mediation and Conciliation Centre of this Court, as the dispute is of civil nature.

Considering the innocuous prayer made by the learned counsel for the parties at this stage, it is appropriate to send



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the matter to the Mediation and Conciliation Centre of this Court. Both the parties along with co-accused namely, Ashok Kumar shall remain present before the Mediation and Conciliation Centre of this Court on 22.11.2023.

This is only to make an endeavor to settle the dispute between the parties. However the petitioner is at liberty to make submissions on merit, in case the mediation fails.

In the meanwhile, the arrest of the petitioner shall remain stayed.

Adjourned to 13.12.2023 for awaiting report of Mediation and Conciliation Centre.”

The report of the Mediation and Conciliation Centre reveals that the mediation could not be materialized. Primarily, the allegations are of civil in nature. The issue whether the intention of the petitioner at the time of agreement to sell was dishonest or not is still need to be proved during investigation.

Adjourned to 27.2.2024.

In the meanwhile, in the event of arrest, the petitioner shall be released on interim bail subject to her furnishing personal and surety bonds to the satisfaction of the Arresting/Investigating Officer. The petitioner shall, however, join the investigation as and when called for and shall also abide by the conditions specified under Section 438(2) of the Cr.P.C.”

2. Today, the learned counsel for the complainant has argued that, the petitioner had, purely with an oblique motive, got the matter referred to the Mediation and Conciliation Centre of this Court, whereas, he did not have any *bona fide* intention to settle the dispute, inasmuch as, instead of making payment of the outstanding amount of Rs.12,00,000/-, he is rather disputing the said amount.

3. On the other hand, the learned counsel for the petitioner has argued that, quotation of an inflated amount of the outstanding sums of money by the complainant has caused impediment in the mediation process.

Nonetheless, since the entire dispute is purely civil in nature, which has deliberately been camouflaged as a criminal litigation, therefore, custodial

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interrogation of the petitioner is not at all warranted. Lastly, he has argued that the petitioner's co-accused/her husband, upon his being arrested in the instant case, has already been extended the relief of regular bail.

4. The learned State counsel has, on instructions imparted to him by A.S.I. Nathi Ram, informed this Court that although the petitioner had joined the investigation and cooperated with the investigating officer, however, the disputed sums of money are yet to be recovered from the petitioner.

5. Be that as it may, this Court is of the view that, merely owing to the disputed sums of money remaining yet un-recovered, the relief of anticipatory bail cannot be denied to the petitioner, especially when the petitioner's husband/her co-accused has already been granted the concession of regular bail, and, when a *prima facie* inference becomes generated from the record that the entire dispute is civil in nature, as it involves monetary transactions. If the complainant is actually legally entitled for recovery of any money, the appropriate statutory course for him would be to, instead of launching criminal proceedings, institute civil proceedings / recovery suit before the competent court concerned.

6. In view of the above, the hereinabove extracted interim order dated 20.12.2023, as made by this Court, is hereby made **absolute**, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

7. This order should not be treated as "blanket" order. It will not be read granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

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8. Needless to say that anything observed hereinabove shall not be construed to be an opinion on the merits of the case.

May 13, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No