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

**CRM-M No.53485 of 2024
Date of Decision: 26.11.2024**

Subhash Chand Sharma

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Subhash Chand Sharma-petitioner in person.

RAJESH BHARDWAJ, J. (ORAL)

1. Instant petition has been filed praying for the quashing of FIR No.489, dated 14.10.2024 (Annexure P-1), under Sections 406, 420 & 34 of IPC, registered at Police Station Model Town, District Rewari which is in violation and against the basic law settled by Hon'ble Apex Court in (i) Criminal Appeal No.581 of 2023 titled as Sarabjit Kaur vs. State of Punjab and anr. (2023 Live Law (SC) decided on 01.03.2023) and in (ii) Criminal Appeal No.1716 of 2024 titled as A.M. Mohan vs. the State represented by SHO and another (2024(2) RCR (Criminal) 380 decided on 20.03.2024) (criminal remedy for purely civil disputes). Further prayer has been made for quashing the order passed by learned S.P., Rewari based upon the report dated 26.07.2024 of Incharge, Economic Cell Rewari, which had become the foundation of present



impugned FIR and for staying the proceedings in pursuance of impugned FIR during the pendency of the present petition.

2. Succinctly the facts of the case are that the impugned FIR was registered by complainant, namely, Naresh Kumar i.e. respondent No.5. The allegations as deciphered from the FIR are to the effect that one Hari Ram is a person of S.C. Sharma, who met him as a broker and with mala fide intention, he hatched a conspiracy with S.C. Sharma for the sale of land measuring 11 kanals. He was told to have a deal for which he arranged the meeting with S.C. Sharma. On meeting, S.C. Sharma told him that the land comprising in Rect. No.14 and Rect. No.25 is situated within the revenue estate of Maheshwari, Sub Tehsil Dharuhera, District Rewari and he was having 1/3rd share measuring 11 kanals. S.C. Sharma orally agreed to sell this land at the rate of 3.20 Crore per acre. On 17.05.2024, he received Rs.99,00,000/- as token/earnest money. It was alleged that he had arranged the transfer of Rs.1,00,000/- through his friend, namely, Rahul by phonepay in the account of S.C. Sharma, he had paid Rs.28,00,000/- as earnest money by way of RTGS in the PNB account of S.C. Sharma. It was alleged that S.C. Sharma had received Rs.30,00,000/- and Hari Ram & his son received Rs.1,00,000/-, thus, total Rs.31,00,000/- was received by them as earnest money. It is alleged that despite repeated requests, the sale deed was not executed. The complainant contacted Halqa Patwari and found that S.C. Sharma had fraudulently caused him a loss of Rs.31,00,000/- by concealing the fact. It was found that the land was



disputed and regarding this land, the cases were pending. It was found that there was a restrained order regarding the lease gift and sale or transfer of land in any form and the same was entered in the revenue record. Hence the complainant made a request to S.C. Sharma and Hari Ram for returning his amount with interest but they kept on putting of the matter on one pretext or the other. As the complainant kept on asking them for return of his money, he was threatened by them to be implicated in a false case. Having no other alternative, the complainant lodged the FIR with a prayer to take the legal action against the accused. On registration of the FIR, the investigation commenced.

3. The petitioner, who is present in person, has vehemently contended that he has been falsely implicated in the present FIR. He has submitted that the allegations made in the FIR that there is a restraining order passed by the Civil Court has no relevancy as he is not a party in the said civil suit. It has been submitted that he has given a legal notice dated 17.12.2023 to the Competent Authority for updating his revenue record in terms of Civil Court decree dated 23.04.2018. He has submitted that FIR has been lodged by the complainant in order to grab his land on a throw away price. He has submitted that the subject matter of FIR filed is purely of civil nature and in such a situation, the remedy available to him is by way of filing the civil suit for specific performance. He has submitted that in case of agreement to sell, if there is any breach, then it would be a civil dispute and not a criminal offence. He has submitted that no agreement was executed between him and the complainant rather it



was an oral agreement. He has relied upon the judgments passed by Hon'ble the Supreme Court in "*Sarabjit Kaur vs. State of Punjab and another*", 2023(2) RCR (Criminal) 52; "*A. M. Mohan vs. The State Represented by SHO and another*", 2024(2) RCR (Criminal)380; "*Radheyshyam and others vs. State of Rajasthan and another*", 2024 (3) Law Herald (SC) 2513; "*Delhi Race Club (1940) Ltd. and others vs. State of Uttar Pradesh and another*", 2024(4) RCR (Criminal) 173; "*Lalu Yadav vs. The State of Uttar Pradesh and others*", 2024(4) RCR (Criminal) 817 and by this Court in "*Charanjit Sharma and another vs. State of Punjab and others*", 2024(2) RCR (Criminal) 318; "*Deegh Ram vs. Shoe Narain @ Sheo Narain*", 2015(1) RCR (Criminal) 960 and "*Chandgi Ram (deceased) through LRs vs. Kartar*", 2024(3) Law Herald (P&H) 2366. He has submitted that in view of the law settled, the FIR is not maintainable and the same deserves to be quashed.

4. Notice of motion to official respondents at this stage.
5. On asking of the Court, Mr. Sumit Jain, Addl. A.G., Haryana appears and accepts notice on behalf of respondents No.1 to 4-State. He has opposed the submissions made by the petitioner, who is present in person. He has submitted that the complainant has made the specific allegations against the petitioner regarding his entering into an agreement to sell with the complainant by hatching a conspiracy with the co-accused. He has submitted that as per the allegations, the material facts were concealed by the petitioner and after having taken the earnest money, the complainant found the land agreed to be sold to be a disputed



one regarding which the Civil Court had issued the restrained order for its alienation. He has submitted that the complainant has duly availed his remedy of initiating the criminal proceedings against the petitioner. He has submitted that the case is under investigation and thus as per the law settled, the petition filed by the petitioner itself is not maintainable and the hence the same being devoid of any merit deserves to be dismissed.

6. Heard. The Court has heard learned counsel for the parties and has gone through the record with their able assistance.

7. It is deciphered from the facts and circumstances of the case that the complainant i.e. respondent No.5 lodged the FIR against the petitioner on the allegations that the petitioner and the complainant had entered into an agreement to sell. The complainant has alleged that the petitioner posed himself to be the owner of land measuring 11 Kanals. After settling the total consideration, the complainant had advanced an earnest money of Rs.30,00,000/- to the petitioner and Rs.1,00,000/- to Hari Ram and his son, however despite repeated requests by the complainant, the sale deed was not executed. Finding the conduct of the petitioner to be suspectful, the complainant enquired from the Revenue Authorities and it was found that land under sale was the subject matter of a civil dispute wherein the restraining order was passed by the Civil Court regarding its alienation. Thus, the complainant found himself to be cheated.

8. Needless to say, the petitioner has refuted these allegations on the premise that he is not a party in the civil suit as alleged by the

complainant. Thus it is apparent that the arguments raised by the petitioner before this Court are purely a disputed question of facts which cannot be entertained by this Court under its inherent jurisdiction. Needless to say that the case is under investigation.

9. Hon'ble the Supreme Court in the case of *Neeharika Infrastructure Pvt. Ltd. vs. State of Maharastra and another*, 2021 SCC Online SC 315 has held that the High Court should exercise the power of quashing under Section 482 Cr.P.C. sparingly with great circumspection that too in the rarest of rare cases and also criminal proceedings ought not to be scuttled at the initial stage.

10. The judgments cited by the petitioner are distinguishable on the facts and circumstances of the present case.

11. Thus this Court finds that the issue involved in the present case is based on disputed questions of facts and the investigation in the case is still pending. Hence weighing the facts and circumstances of the present case, on the anvil of the law settled, this Court does not find any merit in the present petition and thus, the same is hereby dismissed.

26.11.2024
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(RAJESH BHARDWAJ)
JUDGE

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