



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-58403-2023(O&M)
Date of Decision : **August 29, 2024**

SAKSHI SHARMA AND ANR

.....Petitioners

VERSUS

STATE OF HARYANA AND ANR

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Anuj Arya, Advocate
for the petitioners.

Mr. Rajesh Gaur, Addl.AG, Haryana.

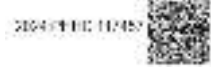
Mr. Paramjeet Phor, Advocate
for respondent No.2.

KULDEEP TIWARI, J.

1. Through the instant petition filed under Section 482 Cr.P.C., prayer is made for quashing of FIR No.238 dated 30.5.2023, under Sections 406/420 IPC, registered at Police Station Sector 13/17, Panipat and all subsequent proceedings taken in pursuance thereof.

2. The instant FIR has been registered on a complaint made by one Ankush Kandhol, wherein, he alleged that the petitioners have cheated him to the tune of Rs. 56,87,500/-, on the pretext of selling their shares in the petrol pump. The relevant extract of the FIR reads as under:-

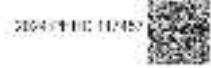
*“There was a Petrol Pump in the name and style Panipat
Filling Junction near Babarpur Mandi, District Panipat of*



CRM-M-58403-2023(O&M)

-2-

Indian Oil Corporation owned by accused/petitioner Smt. Sakshi Sharma wife of co-accused Neeraj Kumar Garg (33.34%), Vinit Kumar Tomar (33.33%) and Vipin Kumar Tyagi (33.33%) and petitioner Sakshi Sharma and another partner Vinit Kumar Tomar induced complainant to buy their shares in the petrol pump to the extent of 25% each. Both the petitioner and Vinit Kumar Tomar executed an agreement dated 23.08.2022 for sale of their 25% share for Rs.56,87,500/- each i.e. total 50% share for a total price of Rs.1,13,75,000/-. Complainant further alleged that he paid entire price of Rs.56,87,500/- to petitioner Sakshi Sharma of her 25% share and he (complainant) paid Rs.47,87,500/- to another partner Vineet Kumar Tomar. Complainant asserted that in this way he paid total Rs.1,04,75,000/- to said both partners of the Petrol Pump. Complainant also submitted that he remained always ready to pay balance Rs.9,00,000/- to partner Vineet Kumar Tomar. Complainant further alleged that he had, after execution of agreement dated 23.08.2022, started running the petrol pump by employing his maximum efforts. As per terms and conditions of said agreement both the sellers had to obtain a letter of reconstitution approval. Seller Vineet Kumar Tomar always remained ready to complete formalities on his part. But petitioner/partner Smt. Sakshi Sharma became dishonest. She started avoiding the matter whereas signatures of both the sellers were required. It was also alleged that co-accused Neeraj Kumar Garg (husband of the petitioner) was also involved in cheating the complainant and in fact both husband and wife conspired to commit fraud with the complainant. Not enough complainant came to know that petitioner/partner Smt. Sakshi Sharma had already taken Rs. 35,00,000/- from one Neelam Dahiya and executed mortgage by pretending that petitioner was giving as security her 25% share out of 75%



CRM-M-58403-2023(O&M)

-3-

share. Complainant maintained that petitioner at the time of execution of agreement dated 23.08.2022 was owner to the extent of 8.34% only but she with dishonest intention executed agreement of 25% share. Complainant also narrated that when he complained to the petitioner, she and her husband demanded sum of Rs.65,00,000/- to clear outstanding amount of Smt. Neelam Dahiya. Petitioner and her husband started blackmailing the complainant who finding himself cheated reported the matter to police to take action against accused.”

3. A perusal of the FIR, reflects that the petrol pump named as M/s. Filling Junction (IOCL), situated at Panipat was having 3 partners, namely, Sakshi Sharma (present petitioner), Vineet Kumar and Vipin Kumar Tyagi and all of them were having 33.3% shares in the said petrol. Petitioner-Sakshi Sharma in conspiracy with her husband, namely, Neeraj had entered into an agreement dated 23.8.2022 with the complainant to the effect that 25% share, out of total 33% of her share, would be transferred in the name of the complainant and for the same she also received an amount of Rs.56,87,500/- as sale consideration. Further, it transpired that prior to this agreement, she has already entered into an agreement dated 23.5.2022, whereby, she has already mortgaged her share with Neelam wife of Ramphal, however, this fact was not disclosed to the complainant.

4. Learned counsel for the petitioner in the asking for the relief (supra) submits that the complainant had never paid an amount of Rs.56,87,500/-, to petitioner No.1, rather the complainant with ulterior motive to take the petrol pump without paying full and final payment, has



lodged the instant FIR, just to exaggerate pressure upon them. While placing reliance upon Annexures P-4 and P-5, he further submits that the complainant had sworn an affidavit that he shall pay total amount of Rs.51 lacs to the petitioner and thereafter only the petitioners shall get petrol pump transferred in the name of the complainant. He also submits that an amount of Rs.40 lacs is still pending till date, which he undertook to pay within 90 days from 11.7.2023. He in addition submits that that after receiving an amount of Rs.11 lacs, the process of transferring the said petrol pump in the name of the complainant has been transferred as per mutual understanding, therefore, it is the complainant, who had not performed his part of the contract and without paying the balance amount, he got the instant FIR registered against the petitioners. He over and above submits that it is purely a case of civil dispute, which has been given the colour of criminal offence.

5. Before dealing with the issue, which has been raised by the learned counsel for the petitioners, it is apt to note that in the instant matter, the SP, Panipat has already constituted an SIT, headed by one Senior Police Officer of the District. During investigating, it surfaced that prior to entering into agreement dated 23.8.2022, Sakshi Sharma had already mortgaged her share with Neelam wife of Ramphal on dated 23.5.2022 and this fact was not disclosed while entering into an agreement with the present complainant. Infact, what further surfaced that the petitioner-Sakshi Sharma in connivance with her husband has already mortgaged her 25% of her share, therefore, the petitioners had cheated the complainant for a tune of Rs.56,87,500/- by



CRM-M-58403-2023(O&M)

-5-

concealing the actual facts of the case, therefore, the investigating agency *prima facie* concluded that the present case is of cheating.

6. This Court has examined the instant FIR (supra), and the reply filed by the State as well as the rival submissions made by the learned counsel for the parties concerned and is of the opinion that the instant petition deserves to be dismissed being bereft of any merit. Before dealing with the submissions made by the learned counsel for the petitioners for the relief (supra), it is apt to note that the instant FIR is still under investigation, therefore, *prima facie* it is a pre-mature motion. The issues which have been raised by the learned counsel for the petitioners are infact disputed questions of facts, which cannot be adjudicated through the instant petition. The veracity of the affidavit and other document, which has been relied upon by the petitioners cannot be taken into consideration at this stage, as these are required to be proved before the learned trial Court concerned at an apt stage.

7. In view of the above facts and circumstances, the instant petition is ordered to be **dismissed**.

8. All pending application(s) stand disposed of accordingly.

August 29, 2024
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(KULDEEP TIWARI)
JUDGE

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