

1

CRM-M-6629-2018
Reserved on:-11.03.2026
Pronounced on:-12.03.2026
Uploaded on:-

Whether only operative part of the judgment is Pronounced or the full judgment is pronounced:	operative part/full judgment
1. <i>Where the operative part of the judgment is pronounced, the full judgment is pronounced.</i> 2. <i>Where the full judgment is pronounced, the operative part is pronounced.</i>	

...Petitioner

Versus

...Respondents

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present:- Mr. Ankur Lal, Advocate
for the petitioner.

Mr. Sushil Bhardwaj, Addl. A.G. Haryana.

Mr. Hakam Singh, Advocate
for respondent No.2.
(Appeared through video conferencing).

MANDEEP PANNU, J.

1. Shyama, aged 65 years, wife of Jai Singh, resident of Village Bandhwari, DLF Phase-1, Tehsil and District Gurugram, Haryana has filed the present petition against the State of Haryana and Parvesh Sethi son of Kewal Krishan Sethi, resident of Gali No. 3-4, Govind Nagar, Tehsil and District Sirsa, Haryana.

2. The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No. 170 dated 22.05.2015 registered under Sections 420, 467, 468, 471 and 120-B of the Indian Penal Code at Police Station



DLF Phase-I, District Gurugram, Haryana and all consequential proceedings arising therefrom.

3. As per the allegations in the FIR, the complainant entered into an agreement to sell with the petitioner Shyama on 01.06.2004 through property dealer Pratap Singh for purchase of 92/489 share in the land measuring 128 kanal 15 marla out of total land bearing Khata No. 127/132 measuring 24 killa situated in Village Bandhwari, as per jamabandi for the year 2000–2001. The rate of the land was fixed at ₹4,50,000 per acre and an amount of ₹1,00,000 was paid as earnest money in cash. It was represented that the land was free from all encumbrances and that no litigation or acquisition proceedings were pending with respect to the said land. It is further alleged that the complainant reached the office of the Registrar on 11.10.2004 for execution of the sale deed, however the petitioner did not appear. Later the complainant came to know that the land was involved in a case pending before the High Court at Chandigarh and an order of status quo was operating with regard to the said land. Thereafter the complainant kept waiting for execution of the sale deed and ultimately filed a civil suit before the Court of Civil Judge (Senior Division) on 24.01.2005 and later also filed a suit for specific performance, declaration and permanent injunction which is stated to be pending adjudication. It is further alleged that despite the agreement in favour of the complainant, the petitioner sold one acre of the land to other persons namely Sheetal wife of Ajit Singh, Sansar Devi wife of Hem Chand and Manju wife of Giriraj on 29.10.2010 vide registered sale deed No. 2962 and thereby violated the terms and conditions of the agreement and cheated the complainant.



4. Learned counsel for the petitioner contends that the present FIR does not disclose the commission of any criminal offence and the dispute between the parties is purely of civil nature arising out of an agreement to sell. It is submitted that the complainant himself had already availed the civil remedy by filing a civil suit for permanent injunction and declaration which was subsequently amended to a suit for specific performance before the learned Civil Judge (Senior Division), Gurugram on 24.01.2005. Despite the pendency of the civil proceedings, the present FIR was lodged on 22.05.2015, after an unexplained delay of about 11 years from the alleged cause of action dated 01.06.2004, which clearly shows that the criminal proceedings have been initiated only to pressurize and harass the petitioner. It is further contended that the dispute with regard to the agreement to sell and execution of the sale deed is essentially civil in nature and the complainant, after having pursued civil proceedings, has tried to give a criminal colour to the dispute. It is also argued that even the police while filing the report under Section 173 Cr.P.C. primarily relied upon the findings recorded by the civil courts, without conducting any independent investigation. Learned counsel submits that the petitioner has already challenged the judgments and decrees passed by the courts below by filing RSA No. 206 of 2016 before this Court, wherein the proceedings before the executing court have also been stayed, and therefore continuation of the criminal proceedings would amount to abuse of the process of law.

5. In support of his submissions, learned counsel for the petitioner has placed reliance upon the judgment of the Hon'ble Supreme Court in ***“Inder Mohan Goswami and another versus State of Uttaranchal and***



others”, 2007 (4) RCR (Criminal) 548, to contend that where the dispute between the parties is essentially civil in nature and criminal proceedings are initiated only to give a colour of criminality to a civil dispute, such proceedings are liable to be quashed.

6. Learned counsel for respondent No. 2, on the other hand, has argued that the FIR has been rightly registered against the petitioner and it is an admitted case that during the pendency of the civil suit, the petitioner sold one acre land out of the land with respect to which the agreement to sell had been executed with the complainant/respondent to a person known to her vide registered sale deed dated 29.10.2010. It is further submitted that in the judgment passed by the learned Additional Civil Judge (Senior Division) dated 25.05.2015, it has been observed that defendant No. 1 had executed the sale deed in favour of a known person during the pendency of the suit with dishonest and malafide intention right from the beginning. The said judgment was upheld by the lower Appellate Court, which also observed that the subsequent purchaser was not a bona fide purchaser and therefore the FIR has been rightly registered. He further argued that civil and criminal proceedings can go on simultaneously and there is no bar to the registration of an FIR even if civil proceedings regarding the same subject matter are pending. It is contended that in the present case the malafides of the petitioner are clearly evident from the findings recorded by the civil courts.

7. I have heard learned counsel for the parties and have gone through the record of the case.

8. From the admitted facts on record, it emerges that the dispute between the parties arises out of an agreement to sell executed in the year



2004 with respect to certain land. It is also not disputed that during the pendency of the civil suit filed by the complainant for specific performance, the petitioner sold one acre of land out of the land in question to certain persons vide registered sale deed dated 29.10.2010. At the most, it can be said that by executing the said sale deed the petitioner violated the terms and conditions of the agreement to sell by not executing the sale deed in favour of the complainant. However, such violation would essentially give rise to civil consequences and the appropriate remedy available to the complainant was before the civil court. The issue regarding the rights of the parties arising out of the agreement to sell as well as the validity and effect of the subsequent sale deed is already the subject matter of adjudication before the civil courts. In fact, the civil courts have examined the said aspect and have observed that the subsequent purchaser is not a bona fide purchaser. Thus, the matter essentially pertains to enforcement of contractual obligations arising out of the agreement to sell and does not, by itself, disclose the commission of any criminal offence.

9. Another significant aspect which cannot be ignored is the unexplained delay in the registration of the FIR. The agreement to sell is stated to have been executed on 01.06.2004, whereas the FIR came to be registered only on 22.05.2015, i.e. after a delay of about 11 years. A perusal of the allegations made in the FIR does not indicate that at the time of entering into the agreement to sell, the petitioner had any fraudulent or dishonest intention so as to deceive the complainant. It is not the case of the complainant that the petitioner had dishonestly induced him to part with property or money by making false representations at the very inception.



The gravamen of the allegation is only that the petitioner did not execute the sale deed in favour of the complainant and sold a portion of the land to another person during the pendency of the suit. Even if the said allegation is accepted at its face value, the same would only amount to breach of the terms of the agreement to sell and the sale, if any, would be subject to the doctrine of lis pendens. Such acts cannot, by themselves, be construed as constituting the offence of cheating.

10. It is also relevant to note that the judgments and decrees passed by the learned Civil Court as well as the Lower Appellate Court have already been challenged by the petitioner by way of RSA No. 206 of 2016 before this Court, wherein this Court has stayed the proceedings before the executing court. It has been submitted on behalf of the petitioner that in view of the stay granted in the RSA, the decree passed by the civil court is presently not executable and therefore the petitioner is not in a position to execute the sale deed in favour of respondent No.2 at this stage. The dispute, therefore, continues to remain sub judice before this Court in the civil proceedings. It is further to be noticed that although the FIR has been registered under Sections 420, 467, 468 and 471 of the Indian Penal Code, the allegations contained therein do not disclose the commission of any offence relating to forgery. There is no allegation that the petitioner forged any document or fabricated any record so as to attract the provisions of Sections 467, 468 or 471 IPC. The entire case of the complainant revolves around non-execution of the sale deed in pursuance of the agreement to sell and the subsequent transfer of a portion of the property, which clearly falls within the realm of a civil dispute.



11. In this context, reliance placed by learned counsel for the petitioner upon the judgment of the Hon'ble Supreme Court in “***Inder Mohan Goswami and another versus State of Uttaranchal and others***”, **2007 (4) RCR (Criminal) 548** is well founded. In the said judgment, the Hon'ble Supreme Court held that when the dispute between the parties is essentially of a civil nature and the criminal proceedings have been initiated to give a colour of criminality to a civil dispute, the continuation of such proceedings would amount to abuse of the process of the court. The principles laid down in the aforesaid judgment are fully applicable to the facts of the present case, where the dispute arises out of an agreement to sell and the complainant has already availed civil remedies with respect to the same subject matter.

12. In view of the discussion made hereinabove, this Court is of the considered opinion that the allegations made in the FIR, even if taken at their face value, essentially disclose a civil dispute relating to enforcement of an agreement to sell. The criminal proceedings appear to have been initiated only to exert pressure upon the petitioner in a matter which is already pending adjudication before the civil courts. Continuation of such proceedings would therefore amount to abuse of the process of law.

13. Accordingly, the present petition is allowed and FIR No. 170 dated 22.05.2015 registered under Sections 420, 467, 468, 471 and 120-B of the Indian Penal Code at Police Station DLF Phase-I, District Gurugram, Haryana and all consequential proceedings arising therefrom are hereby quashed.



CRM-M-6629-2018 8

14. However, nothing observed herein shall be construed as an expression of opinion on the merits of the case.

15. All pending applications, if any, also stand disposed of.

12.03.2026
Anu

(MANDEEP PANNU)
JUDGE

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