

2025:PHHC:075952



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

123

CRM-M-23354-2025
DECIDED ON:06.05.2025

MOHIT JAIN

...PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Pawan Kumar, Advocate &
Mr. Saurabh Saini, Advocate
for the petitioner.

SANDEEP MOUDGIL, J

1. PRAYER

The jurisdiction of this Court has been invoked under Section 528 of BNSS, 2023 seeking quashing the impugned FIR No. 206, dated 17.07.2023 (Annexure P-1) Under Sections 420 & 406 IPC registered at Police Station DLF Phase-III, Gurugram, Haryana.

2. FACTS

The complainant, Respondent No. 1, a retired Assistant General Manager from SBI, along with his wife, Respondent No. 2, a retired teacher, approached accused No. 2, Kunal Singh Sherawat, for the purchase of residential units in the "Ambience Cairtriona" project owned by Respondent No. 4, M/s. Sara Estates Pvt. Ltd. Through accused No. 2, they came in contact with the petitioner, who is arrayed as accused No. 1 in the FIR. The

complainant and his wife agreed to book two units in the project and made initial token payments of ₹20,00,000 on 23.05.2022 and ₹40,00,000 on 25.05.2022 via their SBI account. Additionally, a cheque of ₹1,00,00,000 was issued on 21.05.2022 to M/s. Sara Estates Pvt. Ltd., which was encashed on 17.06.2022. The petitioner (accused No. 1) had earlier assisted the complainant in finding a buyer for his property in Punjabi Bagh, facilitating a token amount of ₹1,00,00,000 from the prospective buyer, which the complainant used to make the above payment. Further payments made by the complainant included ₹50,00,000 on 30.06.2022 and another ₹50,00,000 on 09.07.2022. On the petitioner's advice, RTGS transfers were also made: ₹87,50,000 for Unit No. E-801 and ₹57,50,000 for Unit No. E-1001 on 14.07.2022. It is also alleged that the complainant handed over large amounts of cash to the petitioner. The complainant finalized the sale of his Punjabi Bagh property on 09.09.2022. Subsequently, on 12.09.2022, the complainant transferred ₹4,62,55,379 via two RTGS transactions to M/s. Sara Estates Pvt. Ltd. directly. The company confirmed receipt of ₹3,05,00,000 while claiming a balance of ₹7,45,00,000 remained unpaid. Allegedly, the petitioner misrepresented facts about the Builder Buyer Agreement (BBA) and the Provisional Allotment Letter, and advised the complainant to purchase stamp papers, leading to an additional expenditure of ₹29,82,000. Despite the payments, no executed BBA or allotment letter was provided by the builder. Eventually, on 03.12.2022, M/s. Sara Estates Pvt. Ltd. issued cancellation letters for the provisional allotment of the two units due to non-payment of dues by 14.09.2022. Later, the complainant and his wife renegotiated and secured the allotment for Unit No. E-801. Hence, the present FIR.

3. **SUBMISSIONS**
ON BEHALF OF THE PETITIONER

Learned counsel for the petitioner contends that the petitioner has no nexus with the alleged offence and has been unnecessarily arrayed as an accused with the sole motive to exert pressure and grab his hard-earned money. It is submitted that the petitioner came in contact with the complainant through Accused No. 2, Mr. Kunal Singh Sherawat, and that the complainant and his wife had independently chosen to book two residential units in the "Ambience Caitriona" project owned by Respondent No. 4, M/s. Sara Estates Pvt. Ltd.

It is further argued that the complainant had made substantial payments, including ₹20,00,000/- and ₹40,00,000/- on 23.05.2022 and 25.05.2022 respectively, directly to M/s. Sara Estates Pvt. Ltd., and that the petitioner had no role in such financial transactions. Counsel also contended that a separate complaint under Section 138 of the Negotiable Instruments Act, 1881, has already been filed by the complainant, which is pending before the Judicial Magistrate First Class, Gurugram, and thus, continuation of the present FIR amounts to double jeopardy.

ON BEHALF OF RESPONDENT-STATE

On the other hand, Ms. Mayuri Lakhanpal Kalia, DAG, Haryana appearing on advance notice, has opposed the petition and submitted that the allegations as contained in the FIR disclose a *prima facie* case of cheating, misrepresentation, and criminal breach of trust. The FIR narrates a sequence of events in which the complainant, induced by the petitioner and co-accused, made substantial payments amounting to several crores of rupees, yet did not

receive the promised builder-buyer agreement or formal allotment, ultimately leading to cancellation of the bookings. It is further argued that disputed facts cannot be examined under Section 482 CrPC and must be left for trial.

Heard learned counsel for the respective parties.

4. ANALYSIS

Upon a careful reading of the contents of FIR No. 206/2023, it is evident that specific and detailed allegations have been made against the petitioner. The complainant has narrated a consistent sequence of events wherein he was allegedly induced to part with substantial amounts of money under the pretext of booking two residential units in a real estate project ("Ambience Caitriona"). The FIR alleges that the petitioner, along with the co-accused, misrepresented facts, facilitated the receipt of funds, and failed to ensure delivery of the promised Builder Buyer Agreement (BBA) and other documentation. These allegations, on their face, attract ingredients of criminal offences such as cheating, criminal breach of trust, and misrepresentation under the Indian Penal Code.

While the petitioner has argued that the dispute is civil in nature and has been given a criminal colour, this contention is not tenable at the stage of investigation. The law is well-settled that where factual disputes are involved and serious allegations of fraudulent inducement and dishonest intention from the inception are made, the Court should not interfere under Section 528 of BNSS, 2023 to quash the FIR. The Court is not expected to evaluate the correctness of allegations or enter into a detailed factual analysis at the threshold stage.

The petitioner's involvement, as can be seen from the FIR, includes

not just facilitating the sale of the complainant's property but also allegedly advising and guiding him throughout the process of booking the flats and making payments. Further, it is specifically alleged that the petitioner influenced financial decisions of the complainant, including purchases of stamp papers, despite the absence of executed agreements. Therefore, the petitioner's role appears to go beyond that of a mere intermediary, and whether or not he acted with criminal intent is a matter that requires investigation and possible trial not adjudication at this pre-trial stage.

The Court also finds no merit in the petitioner's plea of double jeopardy. The pending proceedings under Section 138 of the Negotiable Instruments Act, 1881, pertain to dishonour of a cheque, which is a statutory offence with its own procedural framework. On the other hand, the FIR relates to allegations of cheating and criminal breach of trust involving large sums of money, fraudulent inducement, and wrongful loss caused to the complainant. Both proceedings are legally distinct, and one cannot preclude the other. The doctrine of double jeopardy, as envisaged under Article 20(2) of the Constitution and Section 300 CrPC, does not apply at this stage.

The inherent powers under Section 528 of BNSS are reserved for rare situations where the proceedings manifestly appear to be an abuse of the judicial process or where the FIR fails to disclose any cognizable offence. In the present case, the complaint is not vague, frivolous, or devoid of substance. On the contrary, the allegations are specific, supported by payment records, and give rise to a reasonable suspicion of criminal conduct. Therefore, this Court does not find any exceptional circumstance warranting interference.

5. **CONCLUSION:**

In light of the above findings, this Court concludes that the FIR in question discloses cognizable offences and involves disputed facts which require investigation. The petition, being premature and devoid of grounds for quashing, is liable to be dismissed.

Accordingly, the present petition is dismissed.

06.05.2025

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**(SANDEEP MOUDGIL)
JUDGE**

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*