

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Misc(Pet.) No. 6444/2024

Lalit Prakash S/o Shri Laxmi Prakash, Aged About 69 Years, R/o
B-51, Shastri Nagar, Jodhpur.

-----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Jai Kishan S/o Tulsi Das, R/o 291-A, A Road Sardarpura,
Jodhpur.

-----Respondents

For Petitioner(s)	:	Mr. Vineet Jain, Sr. Advocate with Mr. Pravin Vyas.
For Respondent(s)	:	Ms. Sonu Manawat, PP

HON'BLE MR. JUSTICE ARUN MONGA

Order

23/09/2024

Learned Senior counsel appearing on behalf of the petitioner contends that the petitioner and the complainant at one point of time had entered into an agreement to sell qua immovable property. Subsequently, however, by way of a mutual oral agreement, the parties to the agreement decided to resile from the same. Since the agreement stood rescinded, the petitioner is, therefore, not bound by the terms of the same and make any payment pursuant thereto.

Notwithstanding, taking advantage that at the time of execution of agreement to sale, two cheques for an amount of Rs.20 lac each were given to the complainant, the same were subsequently presented for encashment with the bank. Since the

petitioner had already given instructions to his banker not to honour the same, accordingly both the cheques were dishonoured.

Be that as it may, he would point out that in view of the aforesaid facts, the dispute, if at all, is purely civil. Criminal proceedings cannot be invoked. Moreover, he submits that prior to registration of the FIR, the complainant has, collaterally, also initiated proceedings under Section 138 of the Negotiable Instruments Act, which are subjudice before the competent court.

Learned Senior Counsel would thus argue that FIR in question against the petitioner is in complete abuse of police power.

Issue notice.

Ms. Sonu Manawat, learned Public Prosecutor accepts notice on behalf of the respondent No.1- State. Let notice be issued to the respondent No.2.

Meanwhile, further proceedings pursuant to the FIR in question shall remain stayed.

(ARUN MONGA),J