

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Criminal Miscellaneous (Petition) No. 1752/2017

Bhanwarlal Meena Son Of Late Shri Maliram Meena, By Caste Meena, Aged About 42 Years, R/o Village Bai Ka Bas, Tehsil Chomu, District Jaipur (Raj.)

----Petitioner

Versus

1. The State Of Rajasthan Through P.p.
2. Jogendra Kumar Meena Son Of Shri Ram Narayan Meena, By Caste Meena, R/o Village Morija, Tehsil Chomu, District Jaipur (Raj.)

----Respondents

For Petitioner(s)	:	Mr. Anshuman Saxena
For Respondent(s)	:	Mr. Prakash Thakuriya, PP for State Mr. R.K. Daga, for respondent No.2

HON'BLE MR. JUSTICE KANWALJIT SINGH AHLUWALIA

Order

08/03/2018

I have heard Shri R.K. Daga, learned counsel for respondent No.2-complainant.

Even if facts stated by the learned counsel are assumed to be correct, it is debatable question whether offences under Sections 420, 406 and 120B IPC are made out against the petitioner.

Having noted the question, it will be necessary to note brief facts of the case.

One Sanwarmal and Bihari Lal on 8.5.2014 executed an agreement to sell with the complainant Jogendra Kumar Meena. They received Rs.51 Lacs as earnest money. The said agreement to sell dated 8.5.2014 was reduced into writing and was executed

on 12.5.2014. It is stated that having received the earnest money, Sanwarmal and Bihari Lal had to execute the sale deed in favour of Jogendra Kumar Meena, complainant-respondent No.2, within a period of one month. Subsequently, agreement to sell was extended. During the said period, it is alleged that the petitioner had purchased share of Sanwarmal. Admittedly, with agreement to sell, possession was not delivered to Jogendra Kumar Meena, complainant.

In the light of above facts, it is to be noted that neither there was part performance of the contract as envisaged under Section 52A of Transfer of Property Act, nor subsequent purchaser was duty bound to make an inquiry from the person in whose possession the land was. Mere purchase of land will not constitute prima facie case against the accused-petitioner.

Shri R.K. Daga prays for tme to cite the case law.

List on 09.05.2018.

Till then, further proceedings arising out of the impugned FIR are stayed qua the petitioner.

(KANWALJIT SINGH AHLUWALIA),J

Govind/