

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 3813 of 2023

Petitioner :- Athar Kalim Ansari And 3 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Prince Srivastava

Counsel for Respondent :- G.A.,Shobhit Pathak

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Sri Prince Srivastava, learned counsel for the petitioners, Sri Shobhit Pathak, learned counsel appearing for the informant and Sri Ratan Singh, learned A.G.A for the State respondents.

2. The relief sought in this petition is for quashing of the F.I.R. dated 2.2.2023 registered as Case Crime No. 105 of 2023, under Sections 420, 467, 468, 471 IPC, Police Station Civil Lines, District Moradabad. Further prayer has been made not to arrest the petitioner in the aforesaid case.

3. Submission of learned counsel for the petitioners is that the petitioner nos. 1 and 3 are the bonafide purchasers, petitioner no. 2 is the wife of the petitioner no. 2 and the petitioner no. 4 is the witness of the sale deed. It is next submitted that present criminal prosecution has been lodged by filing application under Section 156(3) Cr.P.C. with mala fide intention. It is next submitted that the petitioners are bonafide purchasers from one Azeezur Rahman, who is the neighbour of the petitioners and this is his ancestral property.

4. Per contra, learned counsel appearing for the informant submits that the suit was decided in favour of the informant and the petitioners being the neighbour was fully aware of this fact and the petitioners are direct beneficiary of the sale deed. It is next submitted that a cognizable offence is made out against the petitioners.

5. Learned AGA opposed the prayer for quashing of the FIR, which discloses cognizable offence.

6. Perusal of the impugned first information report prima facie reveals commission of cognizable offence. Therefore, in view of

the law laid down by Hon'ble Supreme Court in the case of **State of Haryana and others vs. Bhajan Lal and others, 1992 Supp. (1) SCC 335 and M/s Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra, AIR 2021 SC 1918 and in Special Leave to Appeal (Crl.) No.3262/2021 (Leelavati Devi @ Leelawati & another vs. the State of Uttar Pradesh)** decided on 07.10.2021, no case has been made out for interference with the impugned first information report.

7. Therefore, the writ petition is dismissed leaving it open for the petitioner to apply before the competent court for anticipatory bail/bail as permissible under law and in accordance with law.

Order Date :- 30.10.2023

Lalit Shukla