

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 13338 of 2023

Petitioner :- Ram Dular Verma And 3 Others

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Shivam Yadav,Ajeet Singh

Counsel for Respondent :- G.A.,Babu Lal Ram

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Sri Ajeet Kumar Singh, learned counsel for the petitioners and learned A.G.A for the State respondents and Sri Babu Lal Ram, learned counsel for the informant.

2. The relief sought in this petition is for quashing of the F.I.R. dated 2.7.2023, registered as Case Crime No. 0298 of 2023, under Sections 420, 384, 506 IPC, Police Station Cantt., District Varanasi. Further prayer has been made not to arrest the petitioner in the aforesaid case.

3. Vide order dated 6.10.2023 the matter was referred to the Mediation Centre, however, as per the mediation report dated 26.10.2023, a sum of Rs. 30,000/- directed to be deposited before the Mediation Centre was not deposited.

4. Learned counsel for the petitioner states that the petitioners are not interested in depositing the said amount and are not willing to go before the Mediation Centre, therefore, we proceed to consider the matter on merits.

5. Submission of the learned counsel for the petitioners is that the petitioners have been falsely implicated and no offence is made out against the petitioners. It is next submitted that present criminal prosecution has been filed by filing an application under Section 156 (3) CrPC and admittedly the first information report clearly discloses that several civil disputes are pending between the parties in respect of the property in question and land acquisition compensation of more than Rs. 1,48,00,000/- and odd has already been prepared. It is submitted that power of attorney executed in favour of the informant had also been cancelled in the year 2019 and therefore, the informant has no right and present criminal prosecution is absolutely mala fide in nature and has been lodged to give colour of criminal prosecution to a civil dispute

6. Learned counsel for the informant, on the other hand, submitted that bare reading of the first information report

clearly discloses that several litigations are pending wherein in respect of power of attorney executed by the petitioner no. 1 Ram Dular Verma, different stands have been taken whereas in fact the property had already been sold to the petitioners and possession was handed over whereas registered agreement to sale was executed and after taking entire money the property was handed over to the petitioners and now a different stand is being taken and objections are being raised in respect of the claim of the land acquisition compensation by the informant and the informant is in possession. It is submitted that the land has vested in government and compensation in the name of the petitioners has also been awarded wherein the petitioners are raising obstructions.

7. Learned AGA opposed the prayer for quashing of the FIR, which discloses cognizable offence. It is next submitted that upto now during investigation nothing has come in favour of the petitioners and a cognizable offence is made out.

8. Perusal of the impugned first information report prima facie reveals commission of cognizable offence.

9. 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.

10. Therefore, the writ petition is dismissed.

Order Date :- 8.11.2023

Abhishek