

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 14403 of 2023

Petitioner :- Lalchand Yadav

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

Counsel for Petitioner :- Devid Kumar Singh, Niraj Kumar Singh, Prateek Rai

Counsel for Respondent :- G.A., Pradeep Kumar Rai

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Counter affidavit filed today is taken on record.
2. Heard Sri Prateek Rai, learned counsel for the petitioner and Sri Ratan Singh, learned A.G.A for the State respondents and Sri Pradeep Kumar Rai, learned counsel for the informant.
3. The relief sought in this petition is for quashing of the F.I.R. dated 11.8.2023, registered as Case Crime No. 0358 of 2023, under Sections 420, 467, 468, 471 IPC, Police Station Cantt, District Varanasi. Further prayer has been made not to arrest the petitioner in the aforesaid case.
4. Counsel for the petitioner submits that the petitioner is owner and in possession of House No. S1/138-B1-Kha, Mauja-Chuppepur, Pargana-Shivpur, Tehsil-Sadar, District Varanasi. Counsel for the petitioner further contends that he has instituted a civil suit bearing Original Suit No. 409 of 2023 titled as Lal Chand Yadav vs. Ravi Kumar and another) pending disposal before the learned Civil Judge (Senior Division), Varanasi. The suit was instituted on 11.5.2023. He further contends that a temporary injunction vide order dated 11.5.2023 has also been granted in favour of the petitioner by the Civil Court. Counsel for the petitioner further contends that the complainant/respondent trespassed into the property on 8.5.2023.
5. Counsel for the complainant submits that the petitioner in connivance with the Nagar Nigam, Varanasi has got allotted fake house number in his favour on the basis of the forged and fabricated documents. He further contends that the petitioner prepared forged water tax receipts, electricity connection receipt, ration card and domicile certificate and on the basis of forged documents, he filed the aforesaid suit for permanent injunction before the Civil Court. Counsel for the complainant relied upon paras 8 and 9 of the counter affidavit. He further submitted that Zonal officer, Nagar Nigam, Varanasi has passed the order on the basis of the

enquiry conducted on 1.7.2023 and cancelled the allotted house no. S1/138-B1-Kha, Mauja-Chuppepur, Pargana-Shivpur, Tehsil-Sadar, District Varanasi.

6. Learned AGA opposed the prayer for quashing of the FIR, which discloses cognizable offence. He further submit that serious allegations of forgery have been levelled against the petitioner and investigation is in progress.

7. Without going into the correctness of the facts stated by both the counsel for the parties apparently on reading of the first information report, a cognizable offence is made out.

8. This Court is of the opinion that in the fact and circumstances of the case mere pendency of a civil suit by itself is not sufficient to quash the proceedings. This aspect of the matter has been considered by us in our judgement and order dated 23.8.2023 passed in Criminal Misc. Writ Petition No. 11789 of 2023 (Tuphail Ahmad and 5 others vs. State of UP and 3 others).

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. The writ petition is devoid of merits and is accordingly dismissed.

Order Date :- 26.10.2023
Abhishek