

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 14715 of 2023

Petitioner :- Ankur Jaiswal

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

Counsel for Petitioner :- Gaurav Kakkar, Sriprakash Singh

Counsel for Respondent :- G.A., Abhishek Kumar, Anubhav Pandey

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Heard Shri Gaurav Kakkar alongwith Shri Sriprakash Singh, learned counsel for the petitioner, Shri Abhishek Kumar alongwith Shri Anubhav Pandey, and Shri 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 09.05.2023, registered as Case Crime No. 49 of 2023, under Section 420 IPC and Section 12(1) of the Passport Act, 1967, Police Station Kotwali City, District Mirzapur. Further prayer has been made not to arrest the petitioner in the aforesaid case.

3. Learned counsel for the petitioner submits that the entire controversy germinate from the matrimonial dispute. He further urged that wife of the petitioner is the complainant in the impugned FIR. Learned counsel for the petitioner further submits that no allegation of section 420 IPC as well as Section 12 (1) of the Passport Act is made out on the plain reading of the impugned First Information Report.

4. Learned counsel for the complainant submits that the petitioner has concealed two material facts at the time of getting second passport made, first, that the petitioner has shown his marital status as '*not married*' whereas he was married, and second, that on the Passport No.Z3656742 there was a red remarks endorsed by the Immigration Officer at Indira Gandhi International Airport owing to certain violations which was concealed by the petitioner from the Passport Officer at the time of obtaining second passport. Learned counsel for the complainant further submits that because petitioner concealed his marital status as '*not married*' and showing the first passport lost at the time of getting the second

passport invites the ingredients of Section 420 IPC, read with Section 12(1) of the Passport Act. Thus the petition is liable to be dismissed.

5. *Per contra*, learned AGA opposed the petition.

6. Be that as it may, *prima facie*, on the plain reading of the impugned First Information Report the contents of cognizable offence is made out as there are allegations of giving false and misleading information to the Passport Officer by the petitioner for obtaining second passport. 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. The writ petition is dismissed leaving it open for the petitioner to avail remedies, as available in law.

Order Date :- 12.10.2023

Nitendra