

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 14753 of 2023

Petitioner :- Pankaj Kumar Alias Saurabh Singh

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

Counsel for Petitioner :- Babu Lal Ram

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Shri Babu Lal Ram, learned counsel for the petitioner as well as Shri Virendra Kumar Pal, learned AGA for the State-respondent.
2. The present petition has been filed challenging the impugned FIR dated 04.03.2023 registered as Case Crime No. 84 of 2023, under Sections 420, 504, 506 IPC, P.S. Panki, District Kanpur Nagar, against the petitioners.
3. The prosecution case, in brief, is that the petitioner has sold the property to one Ram Govind Pal, who had taken a loan from the Aadhar Housing Finance Limited, but the entire loan was not paid. Subsequently, the informant had purchased the said land on auction, and now the petitioner, who is the property dealer, is disturbing in the possession of the informant.
4. The counsel for the petitioner submits that the plot in question is in his name and he is the owner by virtue of a registered sale deed, whereas he has been falsely implicated in the impugned FIR. It is also submitted that petitioner has also filed Original Suit No. 142 of 2023 on 25.01.2023, which is pending before the Civil Court. He submits that to put pressure upon the petitioner to settle the property dispute, the impugned FIR has been lodged with mala fide intention.
5. *Per contra*, Learned A.G.A., on instructions, submits that co-accused Sumit Kumar has already been arrested by the police, who is real brother of the petitioner. He further states that both are the

property dealers and are involved in forged transaction. Learned A.G.A. has also invited attention of the Court towards page no. 30 of the paper book, wherein the amount of Rs. 5,50,800/- has been transacted into the account of petitioner. He therefore submits that a cognizable offence is made out.

6. Be that as it may, it's not judicious for this Court to test the veracity of the allegation made in the impugned FIR, even though the parties are into civil litigation but the investigation of the impugned FIR is in progress. On the plain reading of the contents of the impugned FIR, *prima facie*, the commission of a cognizable offence is made out, against the petitioner. The petitioner has failed to bring its case within the parameters of ***State of Haryana and others Vs. Bhajan Lal and others, 1992 Supp. (1) SCC 335***. Therefore, the extra-ordinary power vests with this Court cannot be invoked in the facts-circumstances of the case.

7. Consequently, the writ petition is devoid of merits and hence **dismissed**.

Order Date :- 12.10.2023

Shafique