

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 15201 of 2023

Petitioner :- Dinesh Kumar Patel

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

Counsel for Petitioner :- Mantosh Singh, Rishabh Kumar

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla, J.

Hon'ble Anish Kumar Gupta, J.

1. Heard Sri Rishabh Kumar, learned counsel for the petitioners and Sri Pushkar Srivastava, learned A.G.A for the State respondents.

2. The relief sought in this petition is for quashing of the F.I.R. dated 24.8.2023 registered as Case Crime No. 181 of 2023 under Sections 419, 420, 468, 471, 504, 506 IPC, Police Station Sujanganj, District Jaunpur. Further prayer has been made not to arrest the petitioner in the aforesaid case.

3. Submission of learned counsel for the petitioner is that the petitioner is a Lawyer by profession and has not committed any such offence and the ingredients of Sections 419, 420, 468, 471 IPC are completely missing in the present case and it is a case of malicious prosecution. It was pointed out that the present criminal prosecution has been lodged after filing application under Section 156(3) Cr.P.C. after the petitioner had filed civil suit being O.S. No. 68 of 2022 for specific performance of the contract. It was also pointed out that the informant had also filed O.S. No. 1639 of 2022 (Obvit Kumar vs. Dinesh Kumar) on 1.10.2022 for cancellation of agreement to sale. Submission, therefore, is that the civil dispute is being given colour of a criminal prosecution.

4. Per contra, learned AGA opposed the prayer for quashing of the FIR, which discloses cognizable offence.

5. From perusal of the first information report we find that the petitioner is admittedly a Lawyer and he was entrusted with the job of getting one agreement to sale executed in the name of some other person and he had got prepared two agreement to sale and the same got signed fraudulently from the informant and as such a

cognizable offence is made against the petitioner and highest degree of trust is require in legal profession.

6. This Court is of the opinion that in the facts and circumstances of the case mere pendency of a civil suit by itself is not sufficient to quash the proceedings.

7. 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)

8. 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.

9. Therefore, the writ petition is dismissed.

Order Date :- 20.11.2023

Lalit Shukla