

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 15059 of 2023

Petitioner :- Majid And Another

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

Counsel for Petitioner :- Amit Kumar Pandey

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Shri Amit Kumar Pandey, learned counsel for the petitioners and Shri R.K. Madheshiya, learned A.G.A for the State respondents.

2. The relief sought in this petition is for quashing of the F.I.R. dated 29.08.2023, registered as Case Crime No. 645 of 2023, under Sections 323, 504, 506, 420, 406 IPC, Police Station Majhola, District Moradabad. Further prayer has been made not to arrest the petitioners in the aforesaid case.

3. Submission of learned counsel for the petitioners is that present criminal prosecution has been lodged with *mala fide* intention. He submits that dispute is purely civil in nature in relation to purchase and sale of one JCB and that there is considerable delay in lodging of the FIR, and civil dispute is being given colour of criminal case, whereas dispute is in relation to a commercial transaction.

4. *Per contra*, learned counsel for the informant has stated that in para 16 of the petition it is mentioned that petitioners have no criminal history and not previously convicted but in fact the petitioner no. 1 has criminal history of 4 cases, petitioner no. 2 has criminal history of 6 cases of almost identical nature. Submission, therefore is that cognizable offence is made out.

5. Learned AGA opposed the prayer for quashing of the FIR, which discloses cognizable offence.

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

7. 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.

8. The writ petition is dismissed leaving it open for the petitioner to apply before the competent court for anticipatory bail/bail as permissible under law and in accordance with law.

Order Date :- 12.10.2023

Ujjawal