

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 15294 of 2023

Petitioner :- Deepak Gupta And Another

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

Counsel for Petitioner :- Ram Sumer Chaudhary

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Shri Ram Sumer Chaudhary, learned counsel for the petitioners and Shri G.P. 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 02.07.2023, registered as Case Crime No. 0234 of 2023, under Section 409 IPC, Police Station Ghughali, District Maharajganj. Further prayer has been made not to arrest the petitioners in the aforesaid case.

3. Submission of the learned counsel for the petitioners is that the petitioners alongwith some other persons were engaged for collection of house tax, taxi stand tax and private bus tax etc. under the Nagar Panchayat Ghughali, District Maharajganj and amount so collected were deposited by them in the account of Nagar Panchayat, Ghughali, District Maharajganj. In the impugned FIR it was admitted that Rs.3,00,000/- were deposited by the petitioners, as such no offence under section 409 IPC is made out. It is further submitted that even after lodging of the FIR the petitioners have further deposited a sum of about Rs.6 lacks.

4. Per contra, learned AGA opposed the petition and submits that admittedly, the petitioners after lodging of the impugned FIR, have deposited further amount of about Rs.6 lakhs towards the arrears being claimed by the Nagar Panchayat, Ghughali, District-Maharajganj, therefore, a cognizable offence is made out.

5. 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.

6. Therefore, 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 :- 13.10.2023

Nitendra