

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 15470 of 2023

Petitioner :- Dinesh Anand And 2 Others

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

Counsel for Petitioner :- Sati Shanker Tripathi,A.K. Mishra

Counsel for Respondent :- G.A.,Vinay Kumar Tripathi,A/V0310

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Shri A.K. Mishra, learned counsel for the petitioners, Shri Yogendra Kumar Mishra, holding brief of Shri V.K. Tripathi, learned counsel for the informant and Shri G.P. Singh, learned AGA for the State-respondents.

2. The present writ petition has been filed challenging the impugned F.I.R. dated 11.09.2023, registered as Case Crime No. 0601 of 2023, under Sections 420, 467, 468, 471, 147, 452, 323, 504, 506 IPC, Police Station Kotwali, District Mathura.

3. Learned counsel for the petitioners submits that petitioners has purchased plot no. 3, falls in Municipal Record No. 240/251 Mauja Mathura Bangar, Pratap Nagar, West, Mathura falling in Khasra No. 365, ad-measuring 35/75 having total area 243.83 sq. meter from one Smt. Meera Yadav wife of Vijay Kumar Yadav, who got power of attorney registered in their name from Shaym and Om Prakash. He further submits that Shyam and Om Prakash are real brothers and the property in question was their parental property. He next submits that dispute is primarily of civil in nature.

4. Learned counsel for the complainant submits that property in question actually belongs to one Bachchu Singh in whose premises Meera Yadav and her husband Vijay Kumar Yadav, was tenant, and they fraudulently got registered the sale deed in their favour by impersonation.

5. Learned AGA submits that investigation is in progress and there are serious allegations of forgery and cheating against the petitioners.

6. Be that as it may, without going into the truthfulness of the

contention raised by learned counsel for the parties, prima-facie, there are allegation of transfer of land without having right, title and interest in the subject property. On plain reading of the impugned FIR, commission of cognizable offence has been made out.

7. The inherent power of the Court under Article 226 of the Constitution of India is permitted to be resorted to when documents relied upon by the accused demonstrate that no *prima facie* offence is made out on the face value of those materials and not otherwise, and if it is allowed to happen it would ensue disastrous and startling consequences. Moreover, the petitioner has failed to bring his case within the parameters compiled by the Supreme Court in **State of Haryana and others vs. Bhajan Lal and others, 1992 Supp. (1) SCC 335.**

8. The present petition is devoid of merit and is accordingly dismissed.

Order Date :- 31.10.2023

Ujjawal