

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 15731 of 2023

Petitioner :- Gurjeet Singh Chawla

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

Counsel for Petitioner :- Rahul Dubey

Counsel for Respondent :- G.A., Ajatshatru Pandey

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Heard Sri S.K. Mishra holding brief of Sri Rahul Dubey, learned counsel for the petitioner, Sri Ajatshatru Pandey, learned counsel appearing for the informant and Sri Vivek Dubey, learned State Law Officer appearing for the State respondents.

2. The relief sought in this petition is for quashing of the F.I.R. registered as Case Crime No. 314 of 2023 under Sections 420, 467, 468, 471 IPC, Police Station Nawababad, District Jhansi. 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 present criminal prosecution is nothing but an abuse of process of law and attempt is being made to give criminal colour to a civil dispute. It is next submitted that in respect of dispute relating to power of attorney executed in favour of Gurjeet Singh Chawla and subsequently executed in favour of Jawahar Lal Jha is pending before this Court being Matters Under Article 227 No. 4093 of 2021 (Smt. Himmat Kumari Singh and others vs. Smt. Karuna Rai), wherein vide order dated 3.9.2021 proceeding of Civil Appeal No. 82 of 2023 has been stayed. Paragraph 2 of the aforesaid order dated 3.9.2021 reflects that by order dated 12.8.2021 the learned court below has passed an order on the application filed by the petitioner to the effect that both the counsel, namely, Ram Sewak Vyas and Mahendra Singh Chawla will be heard, whereas learned court below had rejected the application filed by the petitioner in view of the order dated 12.7.2021 passed by the court below itself. Submission, therefore, is that when the civil dispute is pending, present criminal prosecution is nothing but an abuse of process of law and the same is liable to be quashed.

4. Per contra, learned A.G.A. submits that the petitioner has B Class history-sheet as reflected from the first information report and a cognizable offence is made out against the petitioners.

Attention was drawn to paragraphs 9 and 12 to the order dated 3.9.2021 passed in Matters Under Article 227 No. 4093 of 2021, which are quoted as under:-

"9. The dispute in various litigations referred in the petition is between the family members. From perusal of the record annexed along with the petition especially the judgment and decree dated 18.2.2020 creates cloud over the conduct of Shri Gurdeep Singh Chawla, the earlier power of attorney holder and it appears that in view of the aforesaid fact the power of attorney granted in favour of Gurdeep Singh Chawla has been revoked. Prima-facie it appears that the counsel appointed by Gurdeep Singh Chawla, namely Mahendra Singh Chawla is not authorized to represent Smt. Karuna Rai.

12. There being enter-se dispute between the two power of attorney holders, the dispute between the family members is being converted in a dispute between two alleged power of attorney holders and the counsels appointed by them, as such the matter requires consideration."

5. Additionally, learned counsel appearing for the informant submits that when the power of attorney was executed in favour of Jawahar Lal Jha, Gurjeet Singh Chawla sold the property without any authority to his younger son, therefore, a cognizable offence is made out against the petitioners.

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 :- 22.11.2023

Lalit Shukla