

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 15848 of 2023

Petitioner :- Smt. Bobby

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

Counsel for Petitioner :- Ambreen Masroor, Sadrul Islam Jafri, Sr. Advocate

Counsel for Respondent :- G.A., Karshit Nigam

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Supplementary affidavit filed on behalf of petitioner and supplementary counter affidavit filed on behalf of informant are taken on record.
2. Heard Shri N.I. Jafri, learned Senior Counsel assisted by Shri Ali Zamal Khan, learned counsel for the petitioner, Shri S.S. Nigam, learned Senior Counsel assisted by Shri Karshit Nigam, learned counsel for the informant as well as Shri Ratan Singh, learned AGA for the State-respondent.
3. The present writ petition has been preferred with the prayer to quash the impugned First Information Report dated 08.09.2023, registered as Case Crime No.274 of 2023, under Sections 420, 467, 468, 471 IPC, P.S. Civil Lines, District Meerut, and for a direction to the police not to arrest the petitioner in pursuance of impugned First Information Report.
4. Learned Senior Counsel for the petitioner submits that the petitioner is the *bona fide* purchaser of a piece of land from her husband, and her husband has got the property on the strength of a will dated 5th January, 2012, thus had the right, title and interest in the property in question. He further submits that the petitioner has sold the property against valid consideration to one Abid, the accused no. 2, therefore, the ingredients of Sections 420, 467, 468, 471 I.P.C. are not made out against the petitioner. Learned Senior Counsel further submits that this is a case of misuse of process of criminal law as the complainant has equal efficacious remedy in civil law.
5. Learned Senior Counsel for the informant submits that the

husband of the petitioner created a forged will deed dated 05.01.2012, the contents of the will, if read in accordance with Mohammedan Law, will *prima facie* found to be illegal and subsequent registration of sale deed on the basis of illegal will would make all the future transactions illegal. The second contention of learned Senior Counsel for the informant is that by placing a dead person as witness of the sale deed dated 05.01.2012, amounts to impersonation and thus would make the sale document forged.

6. Learned A.G.A. submits that the investigation is at initial stage, and role of exact accused persons are yet to be ascertained, as the impugned FIR was registered only on 8th September, 2023 hence petition may be dismissed.

7. Be that as it may, both the parties have raised disputed questions, but there are *prima facie* allegation of impersonation in the questioned sale deed, admittedly a dead person has been made witness in the sale deed registered on 08.09.2023. We are of the *prima facie* view that no case of indulgence by this Court under Article 226 of the Constitution is made out in the facts-circumstances of the case. On the plain reading of the contents of the impugned FIR, *prima facie*, the commission of a cognizable offence is made out, against the petitioner. The petitioner has failed to bring its case within the parameters of ***State of Haryana and others Vs. Bhajan Lal and others, 1992 Supp. (1) SCC 335.*** Therefore, the extra-ordinary power vests with this Court under Article 227 of Constitution of India cannot be invoked in the facts-circumstances of the case.

8. Consequently, the writ petition is devoid of merits and hence **dismissed.**

Order Date :- 17.10.2023

Shafique