

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 15764 of 2023

Petitioner :- Sanjeev Kumar Mishra

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

Counsel for Petitioner :- Arvind Prabodh Dubey

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Sri Arvind Prabodh Dubey, learned counsel for the petitioner and Sri Ratan 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 27.10.2020, registered as Case Crime No. 0184 of 2020 under Sections 7, Prevention of Corruption Act, 1988, Police Station Sidhari, District Azamgarh. Further prayer has been made not to arrest the petitioner in the aforesaid case.

3. Learned counsel for the petitioner submits that the petitioner has been exonerated in the departmental enquiry conducted by Deputy Executive Officer, U.P. Khadi and Gramudyog, Varanasi. He next submits that the first informant has no power and authority to register a complaint before the police against the petitioner. Relying upon the enquiry report dated 20th February, 2019, on the basis of which impugned F.I.R. has been registered, he further submits that there is nothing against the petitioner in the said enquiry report, hence the impugned F.I.R. is liable to be quashed.

4. Per contra, learned AGA opposed the prayer for quashing the FIR and submits that there is serious allegation of corruption

against the petitioner. He further submits that the investigation in the present case could not be carried out as the Investigating Officer was suffering from cancer. Learned A.G.A. has drawn the attention of the Court at page-27 of the paper book, i.e., the enquiry report dated 20th February, 2019 wherein reference to the alleged C.D. has been dealt with by the Enquiry Officer with the observation that the petitioner was having some conversation with a person. Though the person, with whom conversation was made by the petitioner, could not be identified but it was clear that there was some talk between them regarding money transaction. This fact also corroborates with the contents of the F.I.R.

5. Be that as it may, there is serious allegation of corruption against the petitioner.

6. On reading of the contents of the impugned first information report, at first instance prima facie, it appears that same discloses commission of cognizable offence. So far as submission made by learned counsel for the petitioner that the petitioner has been exonerated in the departmental enquiry is concerned, without going into the details, it is settled that the scope and ambit of the departmental enquiry is different and distinct from the criminal investigation.

7. The petition is devoid of merit and is, accordingly, dismissed.

8. It is made clear that the observation made hereinabove, shall not prejudice the investigation.

Order Date :- 2.11.2023
Shiraz