

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 15879 of 2023

Petitioner :- Pallav Jaiswal And 3 Others

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

Counsel for Petitioner :- Nitin Sharma, Mohd Faiz

Counsel for Respondent :- G.A., Santosh Kumar
Tripathi, Sushil Shukla

Connected with

Case :- CRIMINAL MISC. WRIT PETITION No. - 8216 of 2023

Petitioner :- Pallaw

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

Counsel for Petitioner :- Irshad Ahmad, Bharat Dixit

Counsel for Respondent :- G.A., Kaif Mohammad, Lalit
Kumar Misra, Santosh Kumar Tripathi, Udai Chandani

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Heard Sri Nitin Sharma, learned counsel for the petitioner and learned A.G.A for the State respondents and Sri Sushil Shukla, learned counsel for the informant.

2. The present leading petition is for quashing of the F.I.R. dated 24.9.2023, registered as Case Crime No. 0354 of 2023, under Sections 420, 467, 468, 471, 120B IPC, Police Station Cantt., District Bareilly. Further prayer has been made not to arrest the petitioner in the aforesaid case.

3. Connected petition is for quashing of the F.I.R. dated 8.5.2023, registered as Case Crime No. 0176 of 2023, under Sections 420, 467, 468, 471, 120B IPC, Police Station Cantt., District Bareilly. Further prayer has been made not to arrest the petitioner in the aforesaid case.

4. Submission of the learned counsel for the petitioners is that the petitioners have been falsely implicated and no offence is made out against the petitioners. It is next submitted that the present impugned FIR has been lodged in order to attach criminality to the civil dispute. It is submitted that the impugned FIR has been lodged after execution of the sale deeds by the petitioner no. 1 in order to pressurize and prevent the petitioners from taking any positive action in respect of the property, which belongs to them. It is submitted that there is a reference of the Will deed of the year 1977 executed by Himmant Singh in favour of one Hari

Om, however, the same has never been challenged and according to the said Will property in question has devolved upon Hari Om who has subsequently sold the property to the petitioners. It is submitted that sale deeds have also not been challenged. It is submitted that the informant has also hide ignorance about the identity of Hari Om and has not made as one of the accused in the first information report. It is submitted that petitioners no. 1, 2 and 3 are bona fide purchasers of the land in question and the petitioner no. 4 is the witness of the sale deed executed in favour of the petitioners no. 1, 2 and 3. Submission, therefore, is that the petitioner no. 1 has sold the property validly and now controversy, if any, is purely civil in nature and no offence as alleged is made out. Crux of the submission is that present criminal prosecution is absolutely mala fide in nature and is being raised to attach criminality to a civil dispute.

5. Learned counsel for the informant has drawn attention to various documents and has pointed out that earlier point of time one FIR dated 8.5.2023 registered as Case Crime No. 0176 of 2023 under Sections 420, 467, 468, 471, 120B IPC, P.S. Cantt., District Bareilly was lodged by the informant herein wherein Pallav along with Hari Om and six other persons were specifically named and the manner in which fraud has been played was disclosed, which is pending. The same was challenged by Pradeep @ Pradeep Kumar by filing Criminal Misc. Writ Petition No. 8132 of 2023 (Pradeep @ Pradeep Kumar vs. State of UP and others), which was dismissed by a co-ordinate Bench of this Court vide order dated 1.6.2023. He pointed out that accused Pallav in the connected petition has been already been arrested in the aforesaid case. He pointed out that after lodging the earlier FIR on 8.5.2023 two sale deeds have been executed subsequently on 25.8.2023 one in favour of Ajay Pratap Singh (accused herein) and other in favour of Pallav (another accused herein) who is also accused in earlier case crime and in both the sale deeds purchasers have been shown to be witnesses and cheques issued are in seriatum and there is nothing on record that such cheques were ever put for encashment. Submission, therefore, is that it is a case where a cognizable offence is made out.

6. Learned AGA opposed the prayer for quashing of the FIR, which discloses cognizable offence.

7. Perusal of the impugned first information report prima facie reveals commission of cognizable offence.

8. 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, present leading petition is dismissed.

10. Since the accused (Pallaw) in connected writ petition being Criminal Misc. Petition No. 8216 of 2023 (Pallaw vs. State of UP and others) has already been arrested, the said petition has become infructuous and is accordingly dismissed as infructuous.

Order Date :- 8.11.2023

Abhishek