

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 16678 of 2023

Petitioner :- Shivam Singh Chauhan

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

Counsel for Petitioner :- Ajay Kumar, Anurag Vajpeyi

Counsel for Respondent :- G.A., Aishwarya Pratap Singh

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Heard Sri Manish Tiwari, learned Senior Counsel assisted by Sri Anurag Vajpeyi, learned counsel for the petitioner as well as Sri J.K. Upadhyay, learned AGA and Sri Aishwarya Pratap Singh, learned counsel for the informant.

2. The relief sought in this petition is for quashing of the F.I.R. Dated 10.9.2023, registered as Case Crime No. 756 of 2023, under Sections 306, 506, 420, 120B IPC, Police Station Chakeri, District Kanpur. Further prayer has been made not to arrest the petitioner in the aforesaid case.

3. At the very outset, learned counsel for the informant and learned AGA pointed out that petition, being Criminal Misc. Writ Petition No. 15363 of 2023, filed by the co-accused Dr. Priya Ranjan Anshu Diwakar has already been dismissed on merits by a co-ordinate Bench of this Court vide order dated 9.10.2023.

5. The said order is quoted as under:

"1. Heard Shri Vinay Saran, learned Senior Advocate, assisted by Shri Raghuvansh Mishra, learned counsel for the petitioner, Shri Aishwarya Pratap Singh, learned counsel for the respondent No. 4, Shri P.C. Srivastava, learned Additional Advocate General assisted by Shri J.K. Upadhaya and Shri Pankaj Saxena, learned AGA-I for the State respondents.

2. The matter had been heard on 27.09.2023 when after the judgment had been reserved. However counsel for the petitioner had been granted time to file written arguments also.

3. On 04.10.2023, a mention was made by Shri Vinay Saran, Senior Advocate that he does not propose to file written arguments.

4. The instant writ petition seeks quashing of the FIR dated 10.09.2023 giving rise to Case Crime No. 756 of 2023, under Section 306, 506, 420, 120B I.P.C., Police Station- Chakeri, District- Poorvi Commissionerate Kanpur Nagar.

5. The first information report alleges that the petitioner by means of a criminal conspiracy got a sale deed executed by the husband of the informant for a very meagre sale consideration of Rs. 25,00,000/- which led him to commit suicide on the railway track. Primarily the submission of counsel for the petitioner is that there exists no material to show that the petitioner abetted the suicide committed by the husband of the informant and that there exists no nexus between the suicide and actions of the petitioner, especially when the deceased was actively pursuing his

legal remedy available under the law.

6. Not only is that the submission made by Counsel for the petitioner, the defence of the petitioner, the same is not liable to be accepted because perusal of the sale deed in question reveals that the sale consideration mentioned therein only Rs. 25,00,000/- while the value of the property as per the circle rate was Rs. 2,37,89,000/- . The first information report alleges that the market value of the property sold in 7 crores. Even if this figure is an exaggeration, fact remains that the allegations is that the first information report cannot be termed fantastic a totally unbelievable.

7. Under the circumstances and since the allegations in the first information report contain the ingredients of cognizable offence. The first information report is not liable to be quashed.

8. The writ petition is accordingly dismissed. "

3. Learned Senior Counsel for the petitioner submits that the allegations are against the co-accused Dr. Priya Ranjan Anshu Diwakar and, therefore, the same would not affect the merits of the present case. He has relied on the judgement of Hon'ble Apex Court rendered in the case of Lovely Salhotra and another vs. State (NCT of Delhi) and another, (2018) 12 SCC 391.

4. We have gone through the FIR carefully and we find that insofar the petitioner is concerned, no distinguishable role has been assigned to the petitioner herein in the present case. It is not a case where any Magistrate has recorded any finding that no offence is made out against the petitioner as investigation against all the accused is pending. We, therefore, do not find that it is a case where Lovely Salhotra (supra) would have application particularly in view of the dismissal of the petition of co-accused on merits by a co-ordinate Bench.

5. In such of the matter, we do not find any good ground to take a different in view in the matter.

6. However, 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.

7. In such view of the matter, present petition is devoid of merit and is accordingly dismissed.

Order Date :- 29.11.2023

Abhishek