

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 16845 of 2023

Petitioner :- Ashok Kumar Sharma @ Ashok Sharma And Another

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

Counsel for Petitioner :- Keshari Nandan Singh

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Sri Keshari Nandan Singh, learned counsel for the petitioners and Sri Ratan Singh, learned AGA for the State.
2. This writ petition has been filed seeking quashing of the first information report dated 5.10.2023 in Case Crime no. 556 of 2023, under Section 420, 506 IPC, P.S. - Modinagar, District - Ghaziabad.
3. Submission of the learned counsel for the petitioners is that the petitioners have already sold out the property on 25.8.2012 by a registered sale deed to the informant and the property was clear in every respect, no loan was taken on the same and it was not mortgaged. This fact has been clearly mentioned in the sale deed itself. The present FIR has been lodged after about 11 years from the date of incident, therefore, no offence is made out.
4. Per contra, learned AGA, on instructions, submits that, in fact, the petitioners have taken loan on 22.1.1998 and regarding which, recovery certificate was issued in the year 2010, which is much prior to the sale deed of the property in question. Therefore, offence is made out.
5. We find in the sale deed dated 25.8.2012 executed by the petitioners it is mentioned that there is no mortgage of the property and no loan etc has been taken on the same.
6. 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.

7. Therefore, the writ petition is dismissed.

Order Date :- 28.10.2023

S.K.S.