

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 17324 of 2023

Petitioner :- Pushpendra Kumar Singh

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

Counsel for Petitioner :- R.P. Mishra

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Anish Kumar Gupta,J.

1. Heard Shri R.P. Mishra, learned counsel for the petitioner and Shri G.P. 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 12.09.2023 registered as Case Crime No. 380 of 2023, under Sections 420, 467, 468, 471, 506 IPC, Police Station Jawan District Aligarh Further prayer has been made not to arrest the petitioner in the aforesaid case.
3. Submission of the learned counsel for the petitioner is that the petitioner was the owner of the property in question through registered sale deed and his name was duly recorded in the revenue records and he had sold the property to the informant as far back in the year 2018 and in the sale deed it has been clearly mentioned that the possession of the property has been handed over to the informant. Now, the present prosecution has been lodged with the allegation that the possession of the property in question has not been handed over to the informant. Submission is that civil dispute is being given colour of criminal prosecution, therefore, the impugned first information report is liable to be quashed.
4. Per contra, learned AGA opposed the petition and submits that on the direction of Superintendent of Police a preliminary enquiry was conducted by the Circle Officer and *prima facie* it was found that a cognizable offence has been committed by the accused petitioner herein.
5. From perusal of records we find that in the FIR there is a reference of enquiry report dated 24.01.2022 submitted by the *Lekhpal* and *Talash Praman Patra* dated 31.07.2020, therefore, once in a preliminarily enquiry the petitioner was found guilty of

committing cognizable offence, we are not inclined to exercise our power under Article 226 of the Constitution of India.

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. The writ petition is devoid of merit and is accordingly dismissed

Order Date :- 17.11.2023

Nitendra