

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 17217 of 2023

Petitioner :- Sushil Kumar And 5 Others

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

Counsel for Petitioner :- Suresh Singh, Akhilesh K. Dwivedi

Counsel for Respondent :- G.A., Dileep Kumar

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Heard Shri Akhilesh Kumar Dwivedi, learned counsel for the petitioners, Shri Dharmendra Singh holding brief of Shri Dileep Kumar, learned counsel appearing for the caveator-respondent and Shri G.P. Singh, learned A.G.A. appearing for the State respondents.

2. The relief sought in this petition is for quashing of the First Information Report dated 9.10.2023 registered as Case Crime No. 619 of 2023 under Sections 419, 420, 467, 468, 471, 504, 447 IPC, Police Station Kotwali, District Fatehpur. Further prayer has been made not to arrest the petitioner in the aforesaid case.

3. Submission of learned counsel for the petitioners is that the instant litigation is of civil in nature and no criminal liability can be fastened on the petitioners because of the impugned First Information Report. It is next submitted that the contents of the impugned First Information Report reflects that there is a civil dispute between the parties and consolidation proceedings have been concluded. It is next submitted that certain civil dispute between the parties is pending before this Court as well with regard to the property in question.

4. *Per contra*, learned counsel appearing for the informant has drawn attention of this Court to the report prepared by the Assistant Consolidation Officer, under Section 9(A)(1) of the Consolidation Act, wherein there is a finding that some mischief has been noticed in Gata No. 724, therefore, the petitioner has committed forgery.

5. Shri G.P. Singh, learned A.G.A. submits that during investigation it is found that certain suspicious document has come

on record regarding the disputed land and no original file has been found in the record room of the revenue authorities.

6. Be that as it may, without going into the truthfulness of the contention raised by learned counsel for the parties, *prima-facie*, there are allegation of transfer of land without having right, title and interest in the subject property. On plain reading of the impugned FIR, commission of cognizable offence has been made out.

7. The inherent power of the Court under Article 226 of the Constitution of India is permitted to be resorted to when documents relied upon by the accused demonstrate that no *prima facie* offence is made out on the face value of those materials and not otherwise, and if it is allowed to happen it would ensue disastrous and startling consequences. Moreover, the petitioner has failed to bring his case within the parameters compiled by the Supreme Court in ***State of Haryana and others vs. Bhajan Lal and others, 1992 Supp. (1) SCC 335.***

8. The present petition is devoid of merit and is accordingly dismissed.

Order Date :- 3.11.2023

Lalit Shukla