

Court No. - 43

Case :- CRIMINAL MISC. WRIT PETITION No. - 17166 of 2023

Petitioner :- Khizar Alam

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

Counsel for Petitioner :- A.Z.Khan

Counsel for Respondent :- G.A.

Hon'ble Anjani Kumar Mishra,J.

Hon'ble Vivek Kumar Singh,J.

1. Heard learned counsel for the petitioner and learned A.G.A. for the State.

2. The instant writ petition seeks quashing of the FIR dated 16.10.2023 giving rise to Case Crime No.326 of 2023, under Sections 420, 447, 323, 504 I.P.C., Police Station- Kotwali Mandi, District- Saharanpur.

3. The contention of learned counsel for the petitioner is that there exists a civil dispute between the parties. The petitioner-accused has filed a suit for injunction against his father that he should not be dispossessed from the house they are residing in, except in accordance with law.

4. On a query by the Court, learned counsel for the petitioner could not deny that the house in which the parties are residing is the house of the informant. The FIR further alleges that the accused, the son of the informant has dispossessed him from the business started and run by the informant. There are also allegations of maltreatment of the informant at the hands of the petitioner.

5. Prima-facie, the civil suit filed by the petitioner is not maintainable because no person can protect his possessory title against the true owner.

6. Under the circumstances, in our considered opinion, no equity lies in favour of the petitioner. It is settled law in equity jurisdiction the Court can refuse to interfere where such interference would amount to perpetuating an illegality.

7. Under the circumstances, the writ petition is dismissed.

Order Date :- 2.11.2023

Mayank