

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 17238 of 2023

Petitioner :- Kapil Tyagi

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

Counsel for Petitioner :- Jitendra Singh, Deepak Singh

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Heard Sri Jitendra Singh, learned counsel for the petitioner and Sri Virendra Kumar Pal, learned A.G.A for the State respondents.
2. The relief sought in this petition is for quashing of the F.I.R. dated 02.08.2023, registered as Case Crime No. 493 of 2023, under Sections 420, 406, 467, 468, 471 IPC, Police Station Sihani Gate, District City (Commissionerate, Ghaziabad). 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 is only a marginal witness of the sale deed executed in the year 2015 in favour of Rahul and he is not beneficiary of the same and it is after five years after execution of the sale deed the present criminal prosecution has been lodged with *mala fide* intention.
4. *Per contra*, learned AGA opposed the petition and pointed out that during investigation Section 419, 420 and 120B IPC have been added. It is further pointed out Smt. Vedwati, wife of the informant died on 10.02.2006 whereas the sale deed in question was shown to have been executed by her on 15.12.2015, therefore, its a clear case of impersonation and, therefore, a cognizable offence is made out.
5. Perusal of the impugned first information report prima facie reveals commission of cognizable offence. 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.

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

Order Date :- 3.11.2023

Nitendra