

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 17321 of 2023

Petitioner :- Arvind And 3 Others

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

Counsel for Petitioner :- Bharat Singh

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Anish Kumar Gupta,J.

1. Heard Shri Bharat Singh, learned counsel for the petitioners and Shri Vibhav Ojha, learned A.G.A for the State respondents.
2. The relief sought in this petition is for quashing of the F.I.R. dated 08.10.2023, registered as Case Crime No. 548 of 2023, under Sections 304, 120B, 420 IPC, P.S. Chandausi, District Sambhal. Further prayer has been made not to arrest the petitioners in the aforesaid case.
3. Submission of the learned counsel for the petitioners is that the petitioners have been falsely implicated in the present case. It is further submitted that the deceased has executed a registered will deed in favour of the petitioners and because of that now the present criminal prosecution has been lodged with false allegations. It is further submitted that according to certificate issued by the hospital the deceased died due to cardiac arrest and the allegations levelled against the petitioners are totally false in nature, therefore, impugned first information report is liable to be quashed.
4. *Per contra*, learned AGA opposed the petition and submits that admittedly the registered will is of the same date on which the deceased was admitted in the hospital and specific allegation is that the petitioners had taken away the deceased from hospital for few hours and thereafter re-admitted him in the hospital, therefore, a cognizable offence is made out.
5. Perusal of the impugned first information report, *prima facie*, reveals commission of cognizable offence and all the arguments that have been raised by the learned counsel for the petitioners are the defence of the petitioners which cannot be accepted in writ

petition filed under Article 226 of the Constitution of India. 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 :- 17.11.2023

Nitendra