

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 17680 of 2023

Petitioner :- Mitesh Kumar And 3 Others

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

Counsel for Petitioner :- Kanhaiya Lal

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Sri Kanhaiya Lal, learned counsel for the petitioners and Shri Ratan 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 24.10.2023, registered as Case Crime No. 0287 of 2023, under Sections 419, 420, 467, 468, 471 IPC, Police Station Harraiya, District Basti. 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 there is a delay in lodging the impugned First Information Report; the will is a registered will executed on 03.02.2021 whereas the present criminal prosecution has been lodged on 11.09.2023. By drawing attention to death certificate of Jhinku it was pointed out that the deceased died on 19.02.2021, therefore, he was alive on the date of execution of the will deed.
4. *Per contra*, learned AGA opposed the petition and submits that in the impugned First Information Report it has been clearly stated that the photographs of the deceased was used for getting the forged will deed registered, therefore, a cognizable offence is made out.
5. On perusal of death certificate of Jhinku we find that the date of death of Jhinku i.e. 19.02.2021 has been registered by the Registering Authority on 29.03.2022 whereas as per impugned FIR Jhinku died on 08.09.2020 as such the aforesaid death certificate, at this stage, for the purpose of quashing of the impugned FIR is not convincing, therefore, a cognizable offence is made out.
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 :- 22.11.2023

Nitendra