

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 17812 of 2023

Petitioner :- Shivam

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

Counsel for Petitioner :- Kripa Shanker Yadav

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Manish Kumar Nigam,J.

1. Heard Sri Kripa Shanker Yadav, learned counsel for the petitioner as well as Sri G.P. Singh, learned A.G.A. for the State respondents.

2. The present writ petition has been preferred with the prayer to quash the impugned First Information Report dated 07.07.2023 registered as Case Crime No. 0245 of 2023, under Section 419, 420, 467, 468, 471 IPC & section 63 & 65 of Copy Right Act, 1957 and section 103, 104 Trade Mark Act, 1999, P.S. Mahua Kheda, District Aligarh, and for a direction to the respondents not to arrest the petitioner in pursuance of impugned First Information Report.

3. Submission of learned counsel for the petitioner is that both the F.I.R. has been lodged by the same person i.e. respondent no. 4- Bhupal Ji and the only difference is that F.I.R. bearing Case Crime No. 0391 of 2023, u/s 419, 420, 467, 468, 471 I.P.C. and u/s 63, 65 of Copy Right Act, 1957 and u/s 103, 104 Trade Mark Act, 1999 lodged on 07.07.2023 at 01.02 A.M. at P.S. Gandhi Park was in respect of the incident dated 06.07.2023 whereas the impugned F.I.R. is in respect of the incident dated 07.07.2023. It is submitted that in both the F.I.R.s the provisions of law invoked are identical, and therefore the second F.I.R. is not maintainable.

4. Learned A.G.A. opposed the prayer for quashing of the FIR, which discloses cognizable offence.

5. From perusal of the F.I.R., we found that the contents of the F.I.R. bearing Case Crime No. 0391 of 2023 is in respect of incident dated 06.07.2023 and the same was lodged on 07.07.2023. We have gone through the earlier F.I.R., which contains different material whereas in the second F.I.R. the material was recovered from the shop that falls within the jurisdiction of P.S. Gandhi Park, Aligarh whereas the impugned F.I.R. is in respect of go-down

where the goods were seized by the police authorities were taken away after breaking lock and were kept in the go-down and this go-down falls within the jurisdiction of P.S. Gandhi Park, Aligarh and the second F.I.R. has been lodged in respect of incident dated 07.07.2023. In such view of the matter, we find that this is not the second F.I.R. for the same incident and the allegations levelled against the petitioner are of serious nature and a cognizable offence is made out. 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.

5. Present petition is accordingly **dismissed**.

Order Date :- 16.11.2023

Vibha