

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 17894 of 2023

Petitioner :- Smt. Usha Rastogi And 8 Others

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

Counsel for Petitioner :- Ajay Kumar Mishra

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Anish Kumar Gupta,J.

1. Heard Sri Ajay Kumar Mishra, learned counsel appearing on behalf of the petitioners, Sri Ashutosh Tripathi, whose Vakalatnama has been filed today on behalf of respondent no.4 and Sri Ratan Singh, learned A.G.A. for the State.

2. This writ petition has been filed for quashing the impugned First Information Report dated 31.10.2023 in Case Crime No. 0643 of 2023, under Sections 420, 467, 468, 471, 120-B IPC, Police Station Hasanpur, District Amroha.

3. Submissions of learned counsel for the petitioners is that the present criminal prosecution has been lodged after eleven years by filing an application u/S 156(3) Cr.P.C. with mala fide intentions to give color of a criminal case to a civil litigation. It is submitted that the proceedings before the competent court of law in respect of cancellation of sale deed is pending and there was no impersonation in filing the correction deed or any other documents, and therefore, the impugned F.I.R. is liable to be quashed.

4. Per contra, learned counsel for informant-respondent no.4 submits that the husband of the petitioner no. 1, namely Surendra Kumar and the father of the petitioner no.4, namely Gyanendra Kumar Rastogi, who is also petitioner no.8 in the present petition, is the real brother of the husband of the informant (Yogendra Kumar Rastogi) and it is pointed out that the informant- husband, was working in Ministry of Defence and retired as Assistant Manager and were living outside and it is only after their retirement they came to know about the same and as such the delay in lodging the F.I.R. is inconsequential and a cognizable offence is made out. There is no bar in simultaneously taking recourse of civil as well as criminal proceedings, as the correction deed has to be set-aside on civil side as well.

5. Per Contra, learned A.G.A. also submits that there is allegation of impersonation and a cognizable offence is made out.

6. We find substance in the arguments of learned counsel for the informant and learned A.G.A. for the State.

7. 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.

8. The writ petition is devoid of merit and is accordingly **dismissed**.

Order Date :- 17.11.2023

Shubham Arya