

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 17956 of 2023

Petitioner :- Nargis And Another

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

Counsel for Petitioner :- Akhilesh Kumar Tiwari,Rabindra Tiwari

Counsel for Respondent :- G.A.,Abhishek Trivedi

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Shri Akhilesh Kumar Tiwari, learned counsel for the petitioners, Shri Abhishek Trivedi, learned counsel for the informant and Shri G.P. 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 16.09.2023, registered as Case Crime No. 618 of 2023, under Section 420 IPC, Police Station Roja, District Shahjahanpur. 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 civil dispute is being given colour of criminal prosecution by falsely implicating the petitioners, who are bona fide purchasers of the property in question. It is further submitted that a registered sale deed was executed by Dinesh Mishra husband of Rammurthi in favour of the petitioners and attention was drawn to order passed by the Revenue Authority as well as documents in support of the arguments to contend that the petitioners were the original and *bona fide* purchaser of the property in question.

4. *Per contra*, learned counsel for the informant opposed the petition and on the basis of documents in his possession it was pointed out that the death certificate annexed at page 46 of the paper book and the copy of the Parivar Register at page 48 of the paper book have been cancelled on objection, theretofore, it is clear that fraud has been played by the petitioners. It is further submitted that Siraj Ahmad, husband of the petitioner no.1 is an advocate and got the sale deed executed in favour of the petitioners by preparing forged documents. It is next submitted that in the registered sale deed name of Dinesh Mishra has been shown

whereas thumb impression of Dinesh Sharma has been affixed in the same.

5. Learned AGA also opposed the petition and submits that a cognizable offence is made out.

6. 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.

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

Order Date :- 28.11.2023

Nitendra