

Court No. - 9

Case :- CRIMINAL MISC. WRIT PETITION No. - 4377 of 2023

Petitioner :- Mahesh Prasad And Others

Respondent :- State Of U.P. Thru. Prin. Secy. Home,Lko. And 3 Others

Counsel for Petitioner :- Dinesh Kumar Srivastava,Manoj Kumar

Counsel for Respondent :- G.A.

Hon'ble Rajnish Kumar,J.

Hon'ble Umesh Chandra Sharma,J.

Heard learned counsel for the petitioners, learned AGA and perused the record.

This writ petition has been filed with the prayer to quash the First Information Report registered as Case Crime No.0088/2023, under sections 147, 504, 452, 427, 323, 336 I.P.C. Police Station- Krishna Nagar, District-Lucknow South (Commissionerate Lucknow).

Submission of learned counsel for the petitioners is that the F.I.R. contains false averments and on account of dispute between informant and the petitioners, the petitioners have been falsely implicated. He further submits that the petitioner no.1 is the absolute owner of the house in question and is continuously depositing the house tax whereas the respondent no.4 has got a forged sale deed in favour of his wife.

The petition is being opposed by learned A.G.A.

The correctness or otherwise of the allegation made in F.I.R. need not be examined by us in view of the law settled inasmuch as such issues are required to be examined at the stage of investigation. The petitioner shall be at liberty to place all materials in support of his defence before the Investigating Officer.

Since the First Information Report prima facie discloses commissioning of cognizable offence, therefore, it cannot be quashed in view of the law laid down by the Supreme Court in the case of **State of Telangana Vs. Habib Abdullah Jellani, (2017) 2 SCC 779 and Neeharika Infrastructure Pvt. Ltd. Vs.State of Maharashtra and others; (2021) SCC Online SC 315**. Prayer for quashing the F.I.R. is declined.

As the offences alleged in the F.I.R. provide for maximum sentence upto seven years, the provisions of Section 41-A of the

Code of Criminal Procedure have to be complied with in view of **Satender Kumar Antil versus Central Bureau of Investigation and Another; (2022) 10 SCC 51** and the same shall be complied.

The writ petition is, accordingly, **dismissed**.

(Umesh Chandra Sharma,J.) (Rajnish Kumar,J.)

Order Date :- 5.6.2023

Akanksha