

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 8767 of 2023

Petitioner :- Natwar Goyal And Another

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

Counsel for Petitioner :- Sudeep Kumar, Harshit Gupta

Counsel for Respondent :- G.A., Rakesh Kumar
Agarwal, Saksham Agarwal

Hon'ble Mrs. Sangeeta Chandra, J.

Hon'ble Narendra Kumar Johari, J.

1. Heard learned counsel for the petitioners, Sri Saksham Agarwal, learned counsel for the private respondent no. 4, learned AGA who appears on behalf of State-respondents and perused the record.

2. This writ petition has been filed with a prayer to issue a writ, order or direction in the nature of Certiorari for quashing of the impugned First Information Report dated 28.10.2023 registered as Case Crime No. 0331 of 2023 under Sections 406, 147, 323, 504, 506, 384, 467, 468 and 342 IPC, P.S. Wazir Ganj, District Lucknow and for a direction to the respondents not to arrest the petitioners pursuant to the impugned FIR.

3. Sri Saksham Agarwal, learned counsel for the respondent no. 4 has filed an application for dismissal of the writ petition along with a short counter affidavit wherein it has been stated that the petitioners have not disclosed before this Court that they have several criminal cases registered against them, details of which have been given in paragraph nos. 4, 5, 6 and 7 of the short counter affidavit.

4. We have perused the short counter affidavit, the relevant paragraphs are being quoted hereinbelow:

*"4. That FIR bearing no. 0074 P.S. Hazratganj District-Lucknow Central (Commissionerate Lucknow) was registered against petitioner-1 on 15.02.2021 under Section- 120(B)/420/467/468/471/409 IPC but the same has not been disclosed in the writ petition. The true copy of the FIR dated 15.02.2021 is annexed herewith as **CA-1**.*

*5. That FIR bearing no. 0013 P.S. Sushant Golf City District-Lucknow South (Commissionerate Lucknow) was registered the petitioners on 08.01.2022 under Section- 419/420/467/468/471/506 IPC but the same has not been Aria disclosed in the writ petition. The true copy of the FIR dated 08.01.2022 is annexed herewith as **CA-2**.*

6. That FIR bearing no. 0211 P.S. Qaiserbagh District-Lucknow Central (Commissionerate Lucknow) was registered against the petitioner-1 on 05.11.2021 under Section- 323/504/506/406/420 IPC but the same has not been disclosed in the writ petition. The true copy of the FIR dated 05.11.2021 is annexed herewith as **CA-3**.

7. That FIR bearing no. 0318 P.S. Vikas Nagar District-Lucknow North (Commissionerate Lucknow) was registered against the petitioner-1 on 26.11.2020 under Section- 406/323/504/506/147 IPC but the same has not been disclosed in the writ petition. The true copy of the FIR date 26.11.2020 is annexed herewith as **CA-4**."

5. It has further been argued by the learned counsel for the private respondent that there is actual voice recorded of the petitioner no. 1 calling of the respondent no. 4 and threatening him demanding Rs. 19,50,000/-. The audio recording in the form of CD has also been filed duly authenticated by Alpha Legal & Forensic Access Pvt. Ltd. a company specialized for investigation of electronic evidence/offences under Section 65-B of the Indian Evidence Act. The certificate issued under Section 65-B of the Indian Evidence Act has also been filed as Annexure-7 to the said short counter affidavit.

6. Learned counsel for the private respondent has also argued on the basis of a judgment rendered by the Hon'ble Supreme Court in the case of **K. Jayaram and others Vs. Bangalore Development Authority and others** [2022 12 SCC 815] that when extraordinary writ jurisdiction under Article 226 is invoked by a litigant, suppression of material facts/concealment would amount to playing fraud with the Court and the litigant should come with clean hands before invoking equitable jurisdiction.

7. This Court has perused the judgment of K. Jayaram (Supra) where the Supreme Court has placed reliance upon earlier judgments to the same effect.

8. Learned counsel for the petitioners on the other hand has pointed out that in all such criminal cases registered against them, final reports have been filed.

9. This Court is convinced that no doubt final reports have been filed but that would not mean that the petitioners had no duty at all to inform this Court by making relevant averments in the writ petition which he has deliberately not done for reasons best known to himself.

10. The Court is entitled to know the criminal antecedents/antecedent criminal or otherwise of a litigant which knocks the doors of the Court seeking equitable relief.

11. It is not the case of the petitioners that all the final reports have been accepted by the Magistrate concerned.

12. Learned counsel for the petitioners has tried to argue on the merits of the case by saying that Ms. Meena Singh, the original allottee of the flat in question being childless had allegedly made out a will in favour of the opposite party no. 4 on the basis of which he claims to be the allottee of the flat booked by late Ms. Meena Singh with M/s Vaibhav Infra Developers Pvt. Ltd. whereas Vaibhav Infra Developers Pvt. Ltd. had entered into a tripartite agreement with Ms. Meena Singh and Vijaya Bank of a loan of Rs. 21,40,000/-. That loan has not been paid because Ms. Meena Singh died and the bank has written to M/s Vaibhav Infra Developers Pvt. Ltd. not to execute the sale deed in favour of any such legal heir of Ms. Meena Singh till the loan is disposed of. Learned counsel for the petitioners has placed reliance upon a letter allegedly written by Ms. Meena Singh on 20.3.2021 just before she died to M/s Vaibhav Infra Developers Pvt. Ltd. saying that she has not been able to pay the entire sale consideration of flat no. 604 because she is sick and that the flat in question should not be handed over to anyone including the respondent no. 4, Sri Ashish Kohli as he may forge her signatures and claim to be her legal heir.

13. Sri Saksham Agarwal, learned counsel for the respondent no. 4 has pointed out that the alleged letter dated 20.3.2021 has been filed as Annexure-8 to the writ petition is an unsigned document which has no validity or evidentiary value in the court of law. He has submitted that Ms. Meena Singh used to sign in English and her undisputed signatures are available in English on Annexure-4 and also Annexure-9. Annexure-4 is a tripartite agreement which signed on every page and Annexure-9 is registered will deed. The signatures of Ms. Meena Singh made in English show that the hand written alleged letter/document dated 20.3.2021 had apparently been forged by the petitioners for his own benefit.

14. Without going into the merits of the case, this Court is of the opinion that the petitioners should have disclosed all criminal cases filed against them which they have not disclosed by invoking equitable jurisdiction of this Court. This Court, therefore, finds no good ground to show interference as prayed for.

15. In view of the aforesaid, writ petition is **dismissed**.

Order Date :- 8.12.2023

AKK