

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 9096 of 2023

Petitioner :- Jaiprakash Dubey

Respondent :- State Of U.P. Thru. Addl.Chief Secy. Deptt. Of Home And 3 Others

Counsel for Petitioner :- Alok Kr. Misra

Counsel for Respondent :- G.A., Ram Prasad Nigam

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Narendra Kumar Johari,J.

Supplementary affidavit filed today by the learned counsel for the petitioner is taken on record.

Heard learned counsel for the petitioner and learned A.G.A. for the State-respondents as well as learned counsel appearing for the private respondent..

This petition has been filed praying the following reliefs:-

(a) Issue a writ, order or direction in the nature of certiorari thereby quashing the impugned first information dated 18.11.2023, vide case crime no. 225 of 2023 under Sections 419, 420, 467, 468, 471 IP.C., lodged at Police Station- Katka, District- Ambedkar Nagar as contained in Annexure-1 to this writ petition.

(b) Issue a writ, order or direction in the nature of mandamus commanding the opposite party nos. 2 and 3 not to harass, detain or prosecute the petitioner in pursuance of the impugned F.I.R.

It has been submitted by the learned counsel for the petitioner that the petitioner has been unduly harassed by lodging of the impugned F.I.R. only because of annoyance of the private respondent no. 4. A private person altogether, who was unhappy with the petitioner having lodged several complaints against him for encroachment of Gaon Sabha land. Copies of such proceedings against the opposite party no. 4 at the behest of the petitioner have been filed as Annexure nos. 2 , 3 and 4 to the writ petition.

It has been submitted that the F.I.R. has been lodged by a private person and not by the Supplying Inspector, District

Supply Officer, Gram Panchayat Officer with regard to alleged forgery, if any, made by the petitioner of the signature of the Gram Panchayat Secretary in the stock verification register and distribution register. The respondent no. 4 has also not made any complaint to the Sub Divisional Officer or any departmental authority regarding forgery of signatures as alleged but has straightway filed the impugned F.I.R. only because the petitioner had made complaints on 17.6.2023, 29.9.2023, 12.10.2023 and 18.11.2023 against the opposite party no. 4 for encroaching chak marg and public land of the Gaon Sabha.

The counsel for the petitioner has also argued on the basis of the supplementary filed today that the opposite party no. 4 has also made a complaint to the Sub Divisional Officer on which the show cause notice has been issued on 1.12.2023 by the Sub Divisional Officer, a copy of such complaint has been filed as Annexure-2 to the said supplementary affidavit.

The counsel for the private respondent has produced before this court a copy of the information received by him under Right to Information Act from the office SDM, Jalalpur, Ambedkar Nagar with regard to stock verification register and distribution register. Copies of which were submitted by the petitioner to the authorities.

On a complaint being made S.P. Mauyra, the then Gram Panchayat Secretary of Azmalpur Bhiyaon had sent written information on 7.11.023 saying that copies of stock verification register and distribution register that have been submitted to the authorities do not appear his signatures. The signatures shown thereon are forged. This Court has also seen copies of such documents obtained under Right to Information Act from January, 2000 to August, 2023. The signatures are different and apparently they do not match with the signatures of Gram Panchayat Secretary made on his reply given on 7.11.2023 to the Gram Panchayat Officer Azmalpur.

Learned counsel for the opposite party no. 4 has also pointed out from the supplementary affidavit that in fact a show cause notice has been issued by the S.D.M. to the Gram Panchayat Secretary saying that it was his duty to verify the stocks and distribution in the village- Azmalpur being carried out by the fair price shop licensee and he has been found negligent in performance of his duty and, therefore, he should show cause as to why disciplinary proceedings should not be recommended against him.

This Court after going through the annexures and also

documents produced before this Court today by Sri Ram Prasad Nigam, which are directed to be kept on record finds no ground to grant prayers as has been made in the writ petition.

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

Order Date :- 6.12.2023

Anuj Singh