

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 9663 of 2023

Petitioner :- Shivam Kumar Shilpkar

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

Counsel for Petitioner :- Om Prakash Mishra

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Narendra Kumar Johari,J.

Heard learned counsel for the petitioner, learned A.G.A. for the State/respondents and perused the material placed on record.

Instructions sent by Sub Inspector/Investigating Officer, Police Station Kotwali Sadar, District Lakhimpur Kheri are kept on record.

This writ petition has been filed with the following main prayers :-

"(i) Issue a writ, order or direction in the nature of certiorari thereby quashing the impugned First Information Report No.1133/2023, dated 21-11-2023, Under Section 306 I.P.C. at Police Station - Kotwali Sadar, District -Lakhimpur Kheri against the four persons including petitioner, as contained in Annexure No.1 to this writ petition.

(ii) issue a writ, order or direction in the nature of mandamus commanding the opposite parties no.1, 2 and 3 not to arrest or adopt any coercive measures against the petitioner on the basis of first information report as First Information Report No.1133 of 2023, dated 21-11-2023, Under Section 306 I.P.C. at Police Station - Kotwali Sadar, District - Lakhimpur Kheri against the four persons including petitioner, as contained in Annexure No.1 to this writ petition."

It has been submitted by learned counsel for the petitioner that the petitioner is completely innocent and he has been falsely implicated in the impugned F.I.R. He has nothing to do with the fraud committed upon the deceased. This Court has perused the F.I.R. wherein the specific allegation has been made by the informant that on 18.01.2023 the petitioner who is named accused in the F.I.R. had conspired to make the husband of the

petitioner quite drunk and thereafter got agreement to sale executed for part of Gata No.27, admeasuring 0.195 Hectare and thereafter an agreement to sale executed on 24.09.2022 with regard to the house of the informant situated at Lakhimpur Kheri. Thereafter, they started pressurizing the husband of the informant to get the sale deed executed, as a result he was in mental agony and committed suicide on 17.05.2023.

This Court from the perusal of the F.I.R. finds cognizable offence to be made out against the petitioner as the petitioner has not in any manner denied the execution of the said agreement to sale. He has infact in paragraph 6 of the writ petition stated that the husband of the informant never executed agreement in favour of the petitioner/accused persons in an intoxicated state, rather the late husband of the informant and the petitioner had cordial relations with each other and alleged agreement to sale were executed under free Will and now the alleged agreements were subsequently canceled by the accused themselves, i.e. the petitioner.

This Court has put a specific query as to how the said agreement to sale which were registered documents have been got cancelled, learned counsel for the petitioner has not been able to give a specific reply.

The reliefs as prayed for in the writ petition cannot be granted. Accordingly, the writ petition is hereby **dismissed**.

Order Date :- 20.12.2023

ML/-