

Neutral Citation No. - 2024:AHC-LKO:19790-DB

Court No. - 9

Case :- CRIMINAL MISC. WRIT PETITION No. - 961 of 2024

Petitioner :- Naveen Singh

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

Counsel for Petitioner :- Ajeet Kumar Singh, Ved Prakash Verma

Counsel for Respondent :- G.A.

with

Case :- CRIMINAL MISC. WRIT PETITION No. - 9213 of 2023

Petitioner :- Ajay Kumar Chaurasiya And Another

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

Counsel for Petitioner :- Mahendra Pratap Singh

Counsel for Respondent :- G.A., Anil Kumar

with

Case :- CRIMINAL MISC. WRIT PETITION No. - 9411 of 2023

Petitioner :- Anuj Singh Rajawat

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

Counsel for Petitioner :- Pradeep Kumar Shukla

Counsel for Respondent :- G.A., Anil Kumar U

with

Case :- CRIMINAL MISC. WRIT PETITION No. - 9439 of 2023

Petitioner :- Rabind

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

Counsel for Petitioner :- Pradeep Kumar Shukla

Counsel for Respondent :- G.A., Anil Kumar U

with

Case :- CRIMINAL MISC. WRIT PETITION No. - 9587 of 2023

Petitioner :- Naveen Singh

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

Counsel for Petitioner :- Ajeet Kumar Singh

Counsel for Respondent :- G.A., Anil Kumar Upadhyay, Anil Kumar Up

with

Case :- CRIMINAL MISC. WRIT PETITION No. - 983 of 2024

Petitioner :- Anuj Singh Rajawat

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

Counsel for Petitioner :- Pradeep Kumar Shukla

Counsel for Respondent :- G.A., Amit Arora

and

Case :- CRIMINAL MISC. WRIT PETITION No. - 1322 of 2024

Petitioner :- Ajay Kumar Chaurasiya

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

Counsel for Petitioner :- Ranjit Singh, Mahendra Pratap Singh

Counsel for Respondent :- G.A., Amit Arora

Hon'ble Rajan Roy, J.

Hon'ble Narendra Kumar Johari, J.

1. Perused report of the office.
2. Explanation submitted by the office in terms of the earlier order is accepted.
3. Heard.
4. These are two sets of writ petition and two sets of accused before us.
5. In one set of writ petitions, F.I.R. bearing no. 550 of 2023 dated 13.11.2023 under Sections 420, 467, 468, 471, 506 I.P.C. and Section 138 of the Negotiable Instrument Act lodged at , Police Station- Mohan Lal Ganj Lucknow South (Commissionerate Lucknow) has been challenged. In this F.I.R. Mithlesh Kumar Pathak is informant.
6. In the other set of writ petition F.I.R. bearing No. 0020 of 2024 dated 2.2.2024 under Sections 419, 420 467, 468, 471 Police Station- Nigoha Lucknow South Commissionerate, Lucknow) has been challenged. In this F.I.R. Rohit Gupta is informant.

7. Incidentally, Rohit Gupta also happens to be an accused in the first F.I.R. dated 13.11.2023.

8. Now, the facts in nutshell are that the land in question is owned by a company, which was earlier known as R.S. Bikes and Wheels Pvt. Limited. Rohit Gupta and his wife Sarika Gupta are Directors of the said company. The name of the company, in fact, underwent a change in 2015 and since then as per document annexed by Rohit Gupta in counter affidavit filed in Criminal Misc. Writ Petition No. 983 of 2023, which is a Certificate of Incorporation pursuant to change of name [Pursuant to rule 29 of the Companies (Incorporation) Rules, 2014], the name of company R.S. Bikes and Wheels Pvt. Limited has been changed to R.S.Vision Infraproperties Private Limited w.e.f the date of said certificate i.e. 13.8.2015.

9. Be that as it may, it is said that a sale deed was executed by one of the petitioners Naveen Singh in his alleged capacity as authorized signatory of the aforesaid company on 2.5.2023 in favour of Brij Gopi Developers Pvt. Ltd. through Anuj Singh Rajawat, who is a Director of another company. Interestingly, in spite of change in name of the company as referred hereinabove the sale deed was executed by Naveen Singh as authorized signatory of R.S. Bikes and Wheels Pvt. Limited.

10. As per the said sale deed, sale consideration of Rs. 25 lacs was paid by the purchaser i.e. Brij Gopi Developers Pvt. Ltd. though Anuj Singh

Rajawat to the seller company by cheque. In none of the pleadings in writ petitions filed by Anuj Singh Rajawat is it mentioned as to in whose name the cheque was issued. During argument, Sri Pradeep Kumar Shukla his counsel submitted that the cheque was issued in the name of Sarika Gupta, however, on being asked as to why the cheque was issued in the name of Sarika Gupta, if the owner of the land was a company, he had no answer. In fact, he could not even show any pleading in his petitions to the effect that the cheque had been issued in the name of Sarika Gupta. Moreover, it is the case of Rohit Gupta, the husband of Sarika Gupta that no such cheque was received by her nor was it deposited/encashed in her account. The counsel for Anuj Singh Rajawat could also not show that in fact the cheque was deposited and encashed in the name of the company or in the name of Rohit Gupta or in the name of Sarika Gupta at least before this Court.

11. On the very next i.e. 3.5.2023, the same land, which was purchased by Brij Gopi Developers Pvt. Ltd. Anuj Singh Rajawat being its Director, was sold by the Latter Company in favour of Mithlesh Kumar Pathak allegedly for a sale consideration of Rs. 60 lacs. Cheques were issued for the said amount. Payment of sale consideration is admitted by Anuj Singh Rajawat Director of Brij Gopi Developers Pvt. Ltd. but possession of the said land could not be handed over, as, in the meantime the Directors of the earlier company i.e. Rohit Gupta and Sarika Gupta raised an objection during mutation proceedings that the Company had never authorized

Naveen Singh to execute any sale deed in favour of Brij Gopi Developers Pvt. Ltd. or Anuj Singh Rajawat and that they were in possession of the land in question.

12. It is claimed by Rohit Gupta that in this regard on 6.6.2023 itself a complaint was made in this regard at Police Station- Mohanlalganj, however, the same was transferred to Police Station- Mahila Thana and ultimately the said complaint was lodged as an F.I.R., only on 2.2.2024 though it had been submitted long back. These facts have been narrated in paragraph no. 19 of the counter affidavit filed in Criminal Misc. Writ Petition No. 983 of of 2024 by Sri Rohit Gupta.

13. In the meantime on 13.11.2023 Mithlesh Kumar Pathak lodged his F.I.R. wherein main allegations are against Anuj Singh Rajawat, Naveen Singh, Rabind, Ajay Kumar Chaurasia and others. As regards, Rohit Gupta and Sarika Gupta towards the end of the F.I.R. apprehension had been raised, as no F.I.R. has been lodged by them against Anuj Singh Rajawat and other accused although they had come to know about the fraud committed through Naveen Singh, therefore, it appears that they are conspiring with the other accused in the matter. Rohit Gupta and Sarika Gupta have not challenged the said F.I.R. dated 13.11.2023. It is said that subsequently Mithlesh Kumar Pathak has given an affidavit to the police authorities that he had named Rohit Gupta and Sarika Gupta in the F.I.R. unknowingly, as he did not know the correct facts and that they were not involved in the crime.

14. Against the aforesaid background, these petitions have been filed.

15. We have perused the order dated 16.2.2024 passed in the said writ petitions, leading writ petition being Criminal Writ Petition No. 961 of 2024 and the order dated 13.2.2024 as also other orders passed in the said writ petition and what comes out is that on 16.2.2024 Rohit Gupta and Sarika Gupta were present in court in pursuant to the notices issued to them by the earlier order and as per the order dated 16.2.2024 they agreed for mediation. Accordingly, following order was passed:-

"1. Sri Rohit Gupta and his wife, Smt. Sarika Gupta are present in person along with Sub-Inspector Rajesh Kumar, Police Station Nigoha, District Lucknow in pursuance of our earlier order dated 13.02.2024. They have expressed their willingness to try and settle the dispute through mediation.

2. Sri Rajesh Kumar Shukla, Advocate holding brief of Sri Pradeep Kumar Shukla, Advocate, appears for Anuj Singh Rajawat and Rabind, the writ petitioners in Criminal Misc. Writ Petition No.9411 of 2023, Criminal Misc. Writ Petition No.9439 of 2023 and Criminal Misc. Writ Petition No.983 of 2024.

3. We direct Anuj Singh Rajawat to make out a bank draft of Rs.10,00,000/- (rupees ten lacs) in favour of Senior Registrar, Mediation and Conciliation Centre, High Court, Lucknow and deposit the same in the Mediation Centre on 28.02.2024. We also direct Anuj Singh Rajawat to make out a bank draft of Rs.10,00,000/- (rupees ten lacs) in favour of Senior Registrar, Mediation and Conciliation Centre, High Court, Lucknow and deposit the same in the Mediation Centre on 14.03.2024. The said amount shall be kept in an interest bearing account and shall not be released to any of the parties till completion

of mediation proceedings/ disposal of these writ petitions.

4. The parties i.e. Naveen Singh, Ajay Kumar Chaurasiya, Santosh Shah, Anuj Singh Rajawat and Rabind as also Mr. Rohit Gupta shall all appear before the Mediation and Conciliation Centre, High Court, Lucknow on 28.02.2024.

5. List this matter on 03.04.2024 for an interim report to be submitted by the Mediation and Conciliation Centre, High Court, Lucknow.

6. It is further directed that, in case, any of the parties to the dispute absents himself from the mediation proceedings without any reasonable cause, the Section Officer of the Mediation and Conciliation Centre, High Court, Lucknow shall inform the Office immediately and the matter shall be listed earlier if need be, for us to deal with it on its merits.

7. Till the next date of listing or till submission of police report under Section 173(2) Cr.P.C., if any, before the competent Court, whichever is earlier, the arrest of the petitioners in Criminal Misc. Writ Petition No.961 of 2024 and in Criminal Misc. Writ Petition No.9213 of 2023 and in Criminal Misc. Writ Petition No.9411 of 2023 and in Criminal Misc. Writ Petition No.9439 of 2023 and in Criminal Misc. Writ Petition No.9587 of 2023 and in Criminal Misc. Writ Petition No.983 of 2024, in pursuance of the impugned F.I.R. shall remain stayed, of course subject to the restraint that the petitioners shall fully cooperate with the investigation and shall appear as and when called upon to assist in the investigation.

8. When the case is listed next, the name of Sri Amit Arora, Advocate shall be shown in the cause list as learned counsel for the respondents."

16. The aforesaid order was applicable to all the writ petitions.

17. Rohit Gupta moved an application before the Mediation Centre saying that he is not agreeable for mediation. There was a stipulation in the order dated 16.2.2024 of this Court itself that if any of the parties does not appear and participate in the mediation proceedings then the matter shall be brought to the notice of the Court immediately. Thereafter, Rohit Gupta filed an application for stay vacation/dismissal of the said writ petition for vacation of the said interim on the ground that though the said persons were present in Court but considering the complexity of court proceedings they did not actually understand as to what was going on, which was taken as an agreement for mediation.

18. Learned counsel appearing for Rohit Gupta arguing on the said application for vacation of the order dated 16.2.2024 submitted that in a case of fabrication and forging of Board Resolution, there is no way that any mediation can take place nor can the matter be got resolved by such mediation in such a criminal case, therefore, his clients i.e. Rohit Gupta and Sarika Gupta are not agreeable for mediation.

19. Counsel for accused- Anuj Singh Rajawat submitted that he had already got a bank draft of Rs. 10 lacs prepared and deposited in the Mediation Centre on 28.2.2024, now this would obviously be in the context of F.I.R. lodged by Mithlesh Kumar Pathak who has paid 60 lacs to Anuj Singh Rajawat but has neither got his money back nor the land purchased by him.

20. Learned counsel for Rohit Gupta invited our attention to various documents as also the contents of the two F.I.Rs. to contend that in such a case mediation was not possible and his client was not agreeable for mediation and his agreement as had been recorded in the order dated 16.2.2024 is under some mis-conception.

21. We have, therefore, considered this aspect also as also the merits of the matter relating to challenge to the impugned F.I.Rs.

22. As regards alleged delay in lodging of F.I.R. by Rohit Gupta i.e.the second F.I.R. lodged on 2.2.2024, the same has been satisfactorily explained in the counter affidavit filed by him and what comes out is that in fact Rohit Gupta had submitted the complaint much earlier in June, 2023 itself on coming to know about the aforesaid sale deeds and the fraud committed by the accused including Naveen Singh, who had never been authorized by the company to execute the sale deed of the land in question in favour of the company- Brij Gopi Developers Pvt. Ltd., especially as, no sale consideration was received by the company in the company's account or any of the Director's account. Moreover, as asserted, based on the pleadings and documents filed along with the counter affidavit filed by Rohit Gupta, the name of R.S. Bikes and Wheels Pvt. Limited had already been changed in 2015 itself. Obviously, the accused were not aware of it, therefore, the fabricated authorization letter and the sale deed executed by Naveen Singh based on such fabricated authorization were all in the name of R.S. Bikes and Wheels Pvt. Ltd.,

which apparently was not possible nor permissible, which itself goes to show the fraud committed by the accused, as claimed. We have taken this into account.

23. We have perused the F.I.R. lodged by Rohit Gupta against the accused which though later in point of time, in fact information regarding it was given first and this is the genesis of the dispute, as, it is based on the fraud committed by the accused as alleged by execution of a sale deed dated 2.5.2023 based on a fraudulent and fabricated Board Resolution dated 1.5.2023. In the F.I.R. dated 2.2.2024 lodged by Rohit Gupta it is stated that the name of R.S. Bikes and Wheels Pvt. Ltd. was changed to R.S. Vision Infraproperties Private Limited on 3.8.2015 as per relevant statutes and rules. The Informant -Rohit Gupta and his wife Sarika Gupta are Directors in the said company. The authority to sell any land belonging to the company vests only in the informant or his wife Sarika Gupta. A "Farzi Director", namely, Naveen Singh, claiming himself to be Director of R.S. Bikes and Wheels Pvt. Ltd., had sold off part of the land belonging to the aforesaid company. This had been done by him after fabrication of documents i.e. alleged authorization in his favour by the Board of the Company on 1.5.2023. The said sale deed has been executed in favour of Brij Gopi Developers Pvt. Ltd. through its Director Anuj Singh Rajawat on 2.5.2023. The F.I.R. states that Naveen Singh has never been a Director in the aforesaid R.S. Bikes and Wheels Pvt. Ltd. nor has he been an employee of the company. The allegation is that that the

aforesaid fraudulent act has been committed by the accused in conspiracy and connivance with each other. The F.I.R. categorically states that the cheque pertaining to the sale consideration referred in the sale deed dated 2.5.2023 has never been received by the company nor deposited in its account. Bank statement of the account of the company has also been enclosed with the F.I.R. Other fraudulent acts have also been alleged in the F.I.R.

24. On being asked to demonstrate the grounds on which the aforesaid F.I.R. could be challenged Sri Mahendra Pratap Singh appearing for Sri Ajai Kumar Chaurasiya submitted that his client was only the marginal witnesses in both the sale deeds i.e. one dated 2.5.2023 and other dated 3.5.2023. He has no role to play in the commission of the offence. Most important the allegation in both the F.I.Rs. is the same, therefore, two separate F.I.Rs. that too at two different police stations could not have been lodged and cannot be investigated. Thirdly he submitted that once matter has been referred for the Mediation and the main accused- Anuj Singh Rajawat has deposited a bank draft of Rs. 10 lacs at the Mediation Centre after having given Rs. 5 lacs earlier in favour of Mithlesh Kumar Pathak, the informant of the F.I.R. dated 13.11.2023, who, in fact, is the real victim according to him, then, this application for vacation of order/dismissal of the writ petition dated 16.2.2024 is not maintainable. Fourthly, he submitted that in the second F.I.R. lodged on 2.2.2024 by Rohit Gupta there is no allegation about commission of any offence by

Ajai Kumar Chaurasia and the only fact which can go against him is the mention that he is a marginal witness to the sale deed otherwise he has no role to play in commission of any of the offences. He, time and again emphasized that it is the Mithlesh Kumar Pathak, who is the real victim.

25. As regards, Sri Pradeep Kumar Shukla, learned counsel, who has argued the matter on behalf of Anuj Singh Rajawat and Rabind, he submitted that so far as Anuj Singh Rajawat is concerned, he accepts the issuance of cheques for paying back Rs. 60 lacs, which were received by him from Mithlesh Kumar Pathak as sale consideration on account of the fact that possession of the land in question could not be handed over to the Purchaser- Mithlesh Kumar Pathak in view of the objection of Rohit Gupta and Sarika Gupta in mutation proceedings and says that he is duty bound to pay back the said amount. In fact, Anuj Singh Rajawat has already paid Rs. 5 lacs and a bank draft of another Rs. 10 lacs has been deposited with the Mediation Centre of this Court. However, he says that it is a case of transaction gone wrong and not a case where there was any *mens rea* to commit any offence.

26. However, on being asked to demonstrate that Rs. 25 lacs cheque issued by his company Brij Gopi Developers Pvt. Ltd. was actually encashed and the money was deposited in the account of seller company R.S. Bikes and Wheels Pvt. Limited. whose name, in fact, had already been changed way back in 2015. He could not demonstrate as to in whose

name the cheque was given and whether it was encashed, at least at this stage.

27. He could also not explain as to how the sale deed has been executed in the name of R.S. Bikes and Wheels Pvt. Limited when the company had already undergone a change of name in 2015 which gives credence to the submission of Sri Amit Arora, learned counsel for Rohit Gupta, as recorded hereinabove that no such amount was paid, of course without recording any conclusive opinion in this regard, as all these issues are a matter of investigation.

28. In the two writ petition filed by Anuj Singh Rajawat bearing Criminal Misc. Writ Petition No. 9411 of 2023 and 983 of 2024 challenging these two F.I.Rs, we do not find any averments as to in whose name cheque of Rs. 25 lacs was issued in the context of the first sale deed and whether it was actually got encashed and deposited in the name of seller company.

29. Surprisingly, in paragraph no. 5 of the Criminal Misc. Writ Petition No. 9411 of 2023 it has been stated that sale deed was registered in favour of the petitioner by the Directors Rohit Gupta and Sarika Gupta on 2.5.2023 after paying the total amount of Rs. 25 lacs. In fact, the sale deed was not executed by Directors Rohit Gupta and Sarika Gupta but was executed by Naveen Singh claiming to be authorized signatory based on a resolution of the board dated 1.5.2023 that too Board of Director of R.S.

Bikes and Wheels Pvt. Limited whereas the name had already undergone a change as referred above. This recital is contrary to the contents of the sale deed. It is in this context that the allegations have been made in the F.I.R. regarding forgery, fabrication and setting up of an imposter to execute and get a sale deed registered in respect of a land owned by the company.

30. In the context of F.I.R. lodged by Mithlesh Kumar Pathak we asked learned counsel for Anuj Singh Rajawat as to whether he can pay back entire sale consideration Rs. 60 lacs received from Mithlesh Kumar Pathak he submitted that as of now he does not have such a huge amount. Counsel for the informant- Mithlesh Kumar Pathak says that sale proceeds were distributed by the accused amongst themselves immediately after the transaction.

31. Sri Ajit Kumar Singh, learned counsel for Naveen Singh kept changing his stand. He firstly submitted that he had got the authorization letter issued by the Board of Directors of R.S. Bikes and Wheels Pvt. Limited from Anuj Singh Rajawat, the purchaser, however, on being further probed by this Court, he changed his stand and submitted that he is not aware as to who gave it to him. We have perused pleadings of his two writ petitions bearing Criminal Misc. Writ Petition 9587 of 2023 and Criminal Misc. Writ Petition 961 of 2024. We are constrained to observe that we have never seen a writ petition so casually drafted containing such vague and insufficient pleadings. Nothing worth the name has been said

as to what is the basis for challenging the two F.I.Rs. lodged against Naveen Singh. There is no reference whatsoever to the authorization letter, which is the basis for Naveen Singh to execute the sale deed in favour of a company of Anuj Singh Rajawat. In paragraph no. 7 Naveen Singh has admitted acquaintance with Anuj Singh Rajawat. We can only say that nothing in the pleadings nor in the grounds would possibly persuade us to interfere at the behest of Naveen Singh with the impugned F.I.Rs. .

32. Sri Pradeep Kumar Shukla also appeared for accused Rabind, who is, as alleged, a driver of Anuj Singh Rajawat. Sri Shukla in the context of his writ petition bearing no. Criminal Misc. Writ Petition No. 9439 of 2023 wherein the F.I.R. dated 13.11.2023 had been challenged submitted that he is only the Driver and apart from that he has no other role to play in the entire matter and the offence against him is not made out.

33. Sri Anil Kumar Upadhyay, learned counsel appearing for Mithlesh Kumar Pathak, the respondent-informant in the writ petition wherein F.I.R. dated 13.11.2023 is under challenge submitted that in a very organized and determined manner his client has been subjected to fraud etc. leading to the lodging of F.I.R. dated 13.11.2023. The accused had given an impression as if the land was free from any dispute and the Brij Gopi Developers Ltd. would purchase it from R.S. Bikes and Wheels Pvt. Limited wherein Rohit Gupta etc. were Directors and then the sale deed would be executed in favour of Mithlesh Kumar Pathak. Considering the

recitals in his F.I.R. the offences are clearly made out, therefore, it is not a case for interference under Article 226 of the Constitution of India and the petitions should be dismissed.

34. In this context, we have perused the F.I.R. dated 13.11.2023 lodged by Mithlesh Kumar Pathak and we find as per recitals in the F.I.R. that land bearing Gata No. 397 (442. 450) sq. meters was purchased by the informant vide sale deed dated 3.5.2023 executed by Brij Gopi Developers Pvt. Ltd. through Anuj Singh Rajawat after payment of sale consideration of Rs. 60 lacs through six cheques dated 1.5.2023, which were deposited in the account of the aforesaid company on 2.5.2023. As per the counsel for Mithlesh Kumar Pathak on the same day the money was distributed between the accused and he has made averments in this regard in his counter affidavit. We do not express any opinion in this regard, as, all these issues are a matter of investigation. The F.I.R. further goes on to state that it is only subsequently the informant came to know during mutation proceedings that the sale deed dated 2.5.2023 by which the accused claimed to have purchased the land from its owner R.S. Bikes and Wheels Pvt. Limited through its alleged authorized signatory Naveen Singh, was, in fact, disputed, and no such authorization had been given by the company in favour of Naveen Singh on account of which possession of the land could never be handed over to the informant – Mithlesh Kumar Pathak. Anuj Singh Rajawat, the main accused in this regard, on being confronted on several occasions, issued certain cheques to the

informant so as to return of the sale consideration of Rs. 60 lacs. Except for Rs. 5 lacs cheque which was encashed, all other cheques to the tune of Rs. 55 lacs bounced and the said amount was never paid. Towards the end of the F.I.R. it has been stated that the fact that Rohit Gupta has not lodged any F.I.R. against Anuj Singh Rajawat and others till then i.e. 13.11.2023 leaves a possibility for his complicity also in the crime. Apart from it there is no other allegation against Rohit Gupta and Sarika Gupta, a fact which has been admitted by the counsel for Mithlesh Kumar Pathak. Obviously, the recitals regarding Rohit Gupta were made at the said time on account of non-lodging of any F.I.R. by Rohit Gupta but the counsel for Rohit Gupta as already noticed hereinabove has already explained this aspect that in fact a complaint had been made against the main accused on 6.6.2023 itself and we say no more. We have dealt with this aspect in the earlier part of judgment.

35. Coming back to the stand of Rohit Gupta represented by Sri Amit Arora in the context of the F.I.R. lodged by him, he submitted that in view of the recitals in his F.I.R. it cannot be said that no cognizable offence is made out or the ingredients of sections mentioned therein are not made out. As regards the order dated 16.2.2024 sending the matter for mediation he reiterated that in a case of forgery and fabrication of Board Resolution there is no way that a criminal case can be settled by mediation and his clients were misunderstood in the proceedings dated 16.2.2024.

36. We have, once again, gone through the contents of both the F.I.Rs. We are of the opinion that based on a reading of it and in view of what has been discussed hereinabove, it cannot be said that no cognizable offence is made out so as to require any interference and quashing of the said F.I.Rs.

37. As regards the contention of Sri Mahendra Pratap Singh that both the F.I.Rs. relate to the same incident, we are not satisfied with this contention. The F.I.R. dated 13.11.2023 is by Mithlesh Kumar Pathak on account of the transaction which had taken place between him and Brij Gopi Developers Pvt. Ltd. through Anuj Singh Rajawat, as already noted hereinabove. The mention of Rohit Gupta therein towards the end is only on account of the fact that in the understanding of the informant at that time since he had not lodged any F.I.R. against Anuj Singh Rajawat and others, therefore, his complicity was suspected by the informant. Counsel for Mithlesh Pathak has stated that in fact an affidavit has been given by his client before the police authorities that the allegation against the Rohit Gupta in the F.I.R. was under a misconception of fact. Of course, if during investigation it is found that Rohit Gupta or his wife Sarika Gupta are also part of conspiracy then appropriate action under Criminal Law can be taken against them also but as of now we do not accept the contention of Sri Mahendra Pratap Singh that both the F.I.Rs. relate to the same incident and therefore, two separate F.I.R. cannot be lodged. The cause of action of two F.I.R. is different. The accusation are also different. During

Investigation, the Senior Police Officers can look into the matter and if they find that both the F.I.R. are required to be investigated together or by the same Investigating Officer appropriate order can be passed by the competent authority in this regard so that there is no overlapping or contradiction.

38. As regards, the subsequent F.I.R. by Rohit Gupta, which has been lodged with the allegations essentially that the Board Resolution dated 1.5.2023 is fabricated and forged and the exercise of alleged authority by Naveen Singh on behalf of R.S. Bikes and Wheels Pvt. Limited which if proved would be an offence in the eyes of law. The said company by the said name, in fact, did not exist, as its name had already undergone change in 2015 itself.

39. The fact that some of the petitioners are only marginal witnesses also does not persuade us to quash the F.I.R. at the behest of Ajai Kumar Chaurasia etc., as there are specific allegations of conspiracy and connivance, which require investigation. If during investigation it is found that some of the petitioners did not have any role or did not commit any offence then consequence will follow accordingly as per law but considering the complex factual scenario, which has presented before us, it is not possible for us to arrive at a conclusion at this stage that none of the petitioners including Rabind, have committed any offence.

40. As regards mediation part, once Rohit Gupta and Sarika Gupta are not agreeable for same, we cannot, in spite of the order dated 16.2.2024 compel them to participate in the mediation proceedings, especially, considering the nature of allegations in the F.I.R. **The amount of Rs. 10 lacs deposited by Anuj Singh Rajawat at the Mediation Centre of this Court shall be returned back to him within 10 days. Senior Registrar of this Court to take up follow up action.**

41. In view of the above discussion, we are of the opinion that it is not a fit case for quashing the F.I.R. in exercise of our extraordinary discretionary equitable jurisdiction under Article 226 of the Constitution of India. It is always open for the petitioners to pursue other remedies including under Section 438 Cr.P.C. uninfluenced by any observations made hereinabove. It is further made clear that the observations made hereinabove are only for the purposes of these proceedings under Article 226 of the Constitution of India and they shall have no adverse bearing whatsoever on the investigation, or even thereafter, if the occasion so arises nor for the purposes of considering grant of bail to any of the accused.

42. At this stage, counsel for the informant informed that anticipatory bail application of Anuj Singh Rajawat, Rabind, Rohit Gupta and Sarika Gupta have been cancelled.

43 We also make it clear that in the context of F.I.R. dated 13.11.2023, the role, if any of Rohit Gupta and Sarika Gupta can also be investigated as per law, if the occasion so arise.

44. Subject to above, the writ petitions are dismissed.

45. Pending Applications are also disposed of

(Narendra Kumar Johari,J.) (Rajan Roy,J.)

Order Date :- 5.3.2024

Anuj Singh