

Sl No.26
03.03.2023.
SB-II

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

**WPA 502 of 2023
Anil Kumar Gupta & Anr.
-versus
The State of West Bengal & Ors.**

Mr. Jagriti Mishra
... for the petitioners.

Mr. Anup Mitra
Mr. Sandip Mandal
... for the respondent no. 5

Mr. Hirak Barman
Mr. Pretom Das
... for the State.

The petitioners pray for quashing of the FIR in Malbazar P.S. Case No. 993 of 2022 dated December 30, 2022.

It has been submitted that the complaint in question arises out of a Deed of Sale, registration of which took place in the year 2018, and the complaint lodged in the year 2020, as a counter blast of the civil litigations that are pending in between the parties.

It has been submitted that the complaint do not disclose any offence, far less cognizable offence. The criminal proceeding has been initiated with mala fide intention and ulterior motive out of spite and vengeance.

Reliance has been placed on the judgment delivered by the Hon'ble Supreme Court in the matter of State of Haryana & Ors. v. Bhajan Lal & Ors., reported in 1992 Supp (1) SCC 335.

Learned advocate representing the private respondent submits, upon instruction that, the sale which allegedly took place is an absolutely illegal and sham one. The sellers mentioned in the Deed of Sale are not the owners of the land in question. The sellers did not have any right to sell the land in favour of any party.

It has been submitted that civil proceedings are pending in between the parties and all the parties are aware of the recorded owner of the land in question.

A report has been filed by the Inspector-in-Charge, Malbazar Police Station signed on March 1, 2023 wherein it has been mentioned that the investigation of the case is in a very initial stage and evidences are being collected to verify the authenticity of the allegations made in the complaint treated as FIR.

It appears from the FIR in question that the names of the purchasers and the sellers, both are implicated therein. The name of the learned advocate, who signed the deed as witness, has also been mentioned in the FIR. The allegation is of a fraud and misrepresentation.

The same is required to be decided and adjudicated by the competent criminal Court. It will not be proper to quash the proceeding or the FIR as sought for.

In view of the above, the instant writ petition fails and is hereby dismissed.

Urgent certified photo copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

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(Amrita Sinha, J.)