HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 2128 of 2025

Vivek Mishra @ Sujeet Kumar Mishra

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Sandeep Kumar Yadav, Subhash Chandra Pandey
Counsel for Respondent(s)	:	G.A.

Court No. - 47

HON'BLE RAJEEV MISRA, J.
HON'BLE DR. AJAY KUMAR-II, J.

1. Case called out in revised list.

2. Even though, the names of Mr. Sandeep Kumar Yadav and Mr. Subhash Chand Pandey are duly published in the cause list as counsel for petitioner but neither they nor anyone on their behalf is present to press the present writ petition, even in revised call.

3. Peruse the record.

4. Petitioners-Vivek Mishra @ Sujeet Kumar Mishra has approached this Court by means of present criminal misc. writ petition challenging the impugned FIR dated 26.07.2024 lodged by first informant-respondent-3, Manoj Kumar Yadav and registered as Case Crime No. 0396 of 2024, under Sections 406, 419, 420, 506, 467, 468, 471, 504 IPC, Police Station-Chauri Chaura, District-Gorakhpur.

5. Present writ petition came up for admission on 13.02.2025 and this Court passed the following order;-

"1. Heard learned counsel for the petitioner, learned A.G.A. for the State-respondents and perused the material brought on the record.

2. The relief sought in this petition is for quashing of the F.I.R. dated 26.07.2024 registered as Case Crime No.0396 of 2024, under Sections 406, 419, 420, 506, 467, 468, 471, 504 I.P.C., P.S. - Chauri Chaura, District- Gorakhpur. Further prayer has

been made not to arrest the petitioner in the aforesaid case.

3. Learned counsel for the petitioner submits that petitioner has no complicity in the instant case. The whole prosecution story is totally false and frivolous and the petitioner has been falsely implicated with ulterior motive and mala-fide intention. The impugned First Information Report is being challenged precisely on the ground that the dispute between the parties is purely of civil in nature and till date the sale deed in question has not been executed. He submits that the petitioner is neither an executor of the sale deed nor is a marginal witness of the alleged agreement to sale. He submits that the present first information report is nothing but a tactics to create pressure upon the petitioner and give colour to the civil dispute. In support of his submission, he has placed reliance on the judgement of Apex Court in Criminal Appeal No.932 of 2021 (Randheer Singh vs. the State of UP and ors) decided on 02.9.2021 as well as order dated 26.10.2021 passed in Criminal Appeal no.1285/2021 (Mitesh Kumar Jha vs. The State of Karnataka) and order dated 25.10.2021 passed in Criminal Appeal no.1393/2011 (Ramawatar vs. State of Madhya Pradesh) and submits that the Court must ensure that criminal prosecution is not used as an instrument of harassment or for seeking private vendetta or with an ulterior motive to pressurize the accused.

4. The matter requires consideration by this Court.

5. Issue notice to the respondent No.3 returnable at an early date.

6. Steps be taken within a week by ordinary process as well as by registered post.

7. All the respondents may file counter affidavit within four weeks. Petitioner shall have one week, thereafter, to file rejoinder affidavit.

8. List thereafter.

9. Considering the facts and circumstances of the case as briefly discussed above, as an interim measure, till the next date of listing or till submission of police report u/s 193(3) B.N.S.S., whichever is earlier, the respondents are restrained to arrest the petitioner pursuant to the impugned FIR, subject to cooperation in the on-going investigation."

6. Upon perusal of order sheet, we find that the interim order was extended, vide orders dated 01.05.2025 and 07.07.2025. However, no

extension of the aforementioned interim order took place thereafter. As such, on date, no interim order is operating in favour of petitioner in present writ petition.

7. Apart from above, by means of interim order dated 13.02.2025, only limited protection was granted by this Court to petitioner inasmuch as, it was only the arrest of petitioner, which was stayed and not the investigation of concerned case crime number.

8. Considering the above and also the fact that the FIR giving rise to present criminal misc. writ petition was lodged on 26.07.2024 and a period of more than two years and three months has expired since then, in all probability, the Investigating Officer must have submitted the requisite police report upon completion of investigation of concerned case crime number.

9. We are, therefore, of the considered opinion that by efflux of time, this writ petition has been rendered infructuous.

10. It is, accordingly, dismissed as having rendered infructuous.

11. Interim order, if any, stands vacated.

October 29, 2026
Vinay

(Dr. Ajay Kumar-II,J.) (Rajeev Misra,J.)

Digitally signed by :-
VINAY KUMAR
High Court of Judicature at Allahabad