2026:AHC:211226-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 22338 of 2024

Smt. Sabia Anwar And 2 Others

.....Petitioner(s)

Versus

State Of Up And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Virendra Pratap Pal
Counsel for Respondent(s)	:	G.A., S.P.S. Chauhan

Court No. - 47

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

1. Heard Mr. Virendra Pratap Pal, the learned counsel for petitioners, learned AGA representing State/respondents 1 and 2, and Mr. Sukhendra Singh, the learned counsel representing first informant- respondent- 3.

2. Perused the record.

3. Petitioner-Smt. Sabia Anwar And 2 Others have approached this Court by means of present criminal miscellaneous writ petition challenging the impugned FIR dated 03.09.2024 lodged by first informant respondent 3, Smt. Sajida Parvesh and and registered as Case Crime No. 397 of 2024, under Sections 420, 467, 468, 471, 506 I.P.C., Police Station-Civil Lines, District-Aligarh.

4. Present writ petition came up for admission on 06.12.2024 and this Court passed the following order:

"1. This writ petition has been filed for not taking action against the petitioner in pursuance of the First Information Report dated 12.7.2024 giving rise to Case Crime No.85 of 2024 under sections 376, 504 and 506 of Indian Penal Code, Police Station Mahila Thana, District Sambhal.

2. Contention of learned counsel for the petitioner is that the informant is habitual in making various complaints and thereafter withdrawing complaints after getting money when the party compromises the matter. He further states that the FIR itself has been lodged stating that the offence actually was committed around a year prior to the lodging of the FIR. It has been stated that the informant-victim is a married woman having two children and her husband is one Shamshad Hussain. Learned counsel for the petitioner further states that the petitioner is not named in the FIR

and only during investigation, the police had formed a view that the illegal activities which were being done by the named accused were being done in the house of the petitioner.

3. Matter requires consideration.

4. Learned AGA appears for respondent nos.1, 2 and 3. Issue notice to respondent no.4 by registered post. Steps may be taken within ten days.

5. Respondents may file their counter affidavits within a period of three weeks. Rejoinder affidavit, if any, may be filed within two weeks thereafter.

6. List this petition on the date fixed in the notice.

7. Till the next date of listing or till the submission of police report, the petitioner shall not be arrested.

Order Date :- 6.12.2024 "

5. Upon perusal of the interim order dated 06.12.2024, we find that this Court entertained the present writ petition primarily on the ground that a compromise decree had been passed in Original Suit No. 854 of 2017 (Sri Anwar Jamal Vs. Smt. Shakira and 4 others). The plaint of aforementioned suit has been brought on record as Annexure 4 to the writ petition. Upon perusal of the cause title of aforesaid suit, we find that the first informant-Smt. Sajida Parvesh is not a party in the aforesaid suit. Therefore, the compromise decree passed in aforementioned suit shall not be binding upon the first informant respondent-3.

6. It is further evident from record that petitioners are claiming right, title, and interest over the land in dispute on the basis of a gift (Hibbanama) alleged to have been made by Badar Alam, who is the husband of the first informant/respondent-3 in favor of Shakira Begum, his mother. This Hibbanama has been seriously disputed by learned counsel representing first informant/respondent-3 on the ground that it is an unregistered document. Furthermore, the said Hibanama was never acted upon during lifetime of Badar Alam himself. On the above conspectus, the learned counsel representing first informant/respondent-3, thus submits that in view of the law laid down by Apex Court in the case of **Kamaladevi Agarwal Vs. State of West Bengal, (2002) 1 SCC 555,** the civil and criminal proceedings can go on simultaneously. He, therefore, submits that present writ petition is liable to be dismissed.

7. When confronted with above, the learned counsel for petitioners could not overcome the same.

8. Having heard the learned counsel for the parties, upon perusal of the record and considering the objections raised by the learned counsel representing first informant/respondent-3 in opposition to present writ petition, we are of the view that no interference is warranted by this Court in present writ petition.

9. As a result, present writ petition fails and is liable to be dismissed.

10. It is accordingly dismissed.

11. Interim order, if any, shall stand vacated.

October 8, 2026
YK

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

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