HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 28777 of 2025

Ajmuddin

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Janardan Prasad Tripathi, Shashi Bhushan Tripathi
Counsel for Respondent(s)	:	G.A.

Court No. - 47

HON'BLE RAJEEV MISRA, J.
HON'BLE DEVENDRA SINGH-I, J.

1. Heard Shri Janardan Prasad Tripathi, the learned counsel for petitioner and the learned A.G.A. representing State/respondents 1, 2.

2. Perused the record.

3. Petitioner-Ajmuddin has appraoched this Court by means of present Criminal Misc. Writ Petition challenging the impugned FIR dated 29.11.2025 lodged by first informant-Vameshwar Prasad Sinha and registered as Case Crime No.682 of 2025, under Sections 318(4), 338, 336(3), 340(2), 316(2), BNS, Police Station Tappal, District Aligarh.

4. Presented petition came up for admission on 15.12.2025 and this Court passed the following order:

*"**Order on Writ Petition***

This writ petition has been filed seeking to quash the first information report dated 29.11.2025 giving rise to Case Crime No.682 of 2025, under Sections 318 (4), 338, 336 (3), 340 (2) and 316 (2) of B.N.S., P.S. Tappal, District, Aligarh.

The impugned FIR has been lodged against the vendor of land on the ground that he sold the land to the first informant that the vendor had already sold way back on 11.11.1997.

The contention of the learned Counsel for the petitioner is that the petitioner is a marginal witness. He is neither the vendor nor the vendee, nor the man who brokered the deal. He has absolutely nothing to do with the transaction itself, except witnessing the execution of the deed and its registration before the Sub-Registrar. He has no criminal liability.

Prima facie, the contention is sound.

Admit.

Issue notice.

Notice on behalf of respondent nos. 1 to 2 is accepted by Mr. Shashi Shekar Tiwari, learned Additional Government Advocate. He is granted two weeks' time to file a counter affidavit.

Step to serve respondent no.3 shall be taken by RPAD on or before 19.12.2025.

List for orders on 08.01.2026 along with a report regarding service and the postal track attached.

Office shall also put in a report regarding status of pleadings.

Order on Civil Misc. Stay Application No.01 of 2025

Issue notice.

Until further orders of this Court, the petitioner, Ajmuddin shall not be arrested in Case Crime No.682 of 2025, under Sections 318 (4), 338, 336 (3), 340 (2) and 316 (2) of B.N.S., P.S. Tappal, District, Aligarh, but the investigation may go on.

Let this order be communicated to the Station House Officer, Police Station Tappal, District Aligarh through the learned Chief Judicial Magistrate, Aligarh by the Registrar (Compliance) within 24 hours."

5. Pursuant to the above order dated 15.12.2025, notice was issued to first informant-respondent-3. Office has submitted a report dated 08.01.2026 stating therein that neither undelivered cover nor acknowledgement has been received. In view of above, service of notice upon first informant-respondent-3 shall be deemed to be sufficient.

6. Learned A.G.A. has filed counter affidavit to the writ petition which is on the record. Learned counsel for the petitioner submits that he does not wish to file any rejoinder affidavit to the counter affidavit filed by learned A.G.A. on behalf of State-respondents 1 & 2.

7. Learned counsel for petitioner in support of the writ petition submits that since petitioner is neither vendor nor vendee, therefore, he cannot be said to be an architect of the disputed sale deed. Referring to the judgments of Supreme Court in **Sheila Sebastian vs. R. Jawaharaj, (2018) 7 SCC 581** as reaffirmed in **Jupally Lakshmikantha Reddy vs. State of Andhra Pradesh and another 2025 SCC OnLine SC 1950,** it is urged by learned counsel for the petitioner that in view of above factual position, the criminal prosecution of petitioner in respect of disputed sale deed dated 12.11.1997 cannot be sustained. Petitioner is simply a marginal witness in the said sale deed. On the above premise, the learned counsel for petitioner thus submits that the impugned FIR insofar it relates to petitioner cannot be sustained and is therefore liable to be quashed by this Court.

8. Per contra, the learned A.G.A. representing State/respondents 1 & 2 vehemently opposed the present writ petition. Learned A.G.A. submits that since upon perusal of the impugned FIR, commission of a cognizable offence is clearly disclosed as such no interference is warranted by this Court in present writ petition. It is then contended by learned A.G.A. that allegations made in the FIR make out a, *prima facie*, case against petitioner. Since at this stage, it is only a prima facie case which is to be seen, therefore, no indulgence can be granted by this Court in favour of the petitioner. However, he could not dispute the factual and illegal submissions urged by the learned counsel for petitioner with reference to the record.

9. Having heard the learned counsel for petitioner and the learned A.G.A. representing State/respondents and upon perusal of the record, we find that petitioner is a marginal witness in the disputed sale deed dated 13.02.2015, copy of which is on record as Annexure-3 to the writ petition.

10. In view of above and also the law laid down by Supreme Court in **Sheila Sebastian** (supra) as reaffirmed in **Jupally Lakshmikantha Reddy** (supra), is squarely attracted in the present case. As a result the criminal prosecution of petitioner pursuant to the impugned FIR is not only malicious but also abuse of process of the Court, therefore, the impugned FIR is liable to be quashed.

11. Resultantly, the writ petition succeeds and is **allowed**.

12. The impugned FIR dated 29.11.2025 lodged by first informant-Vameshwar Prasad Sinha and registered as Case Crime No.682 of 2025, under Sections 318(4), 338, 336(3), 340(2), 316(2), BNS, Police Station Tappal, District Aligarh (Annexure-1 to the writ petition) shall stand quashed.

13. In the facts and circumstances of the case, the cost is made easy.

(Devendra Singh-I,J.) (Rajeev Misra,J.)

October 23, 2026
Mukesh Kr.

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