

Court No. - 48

Case :- CRIMINAL MISC. WRIT PETITION No. - 18268 of 2022

Petitioner :- Gyan Chand Agrawal

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Vinayak Mithal

Counsel for Respondent :- G.A.,Ajay Kumar Bashist Singh,Ram Kishore Pandey

Hon'ble Suneet Kumar,J.

Hon'ble Ram Manohar Narayan Mishra,J.

Heard Shri Dilip Kumar, learned Senior Counsel assisted by Shri Vinayak Mithal, learned counsel for the petitioner, Shri Ram Kishore Pandey and Shri Ajay Kumar Bashist Singh, learned counsel appearing for the third respondent and learned A.G.A. for the State respondents.

Petitioner by means of the instant petition seeks the following reliefs:

i) issue an appropriate writ, order or direction quashing the impugned order passed by the court of Chief Judicial Magistrate, District Agra, allowing Application No. 751 of 2021 (Pink City Infrastructure Pvt. Ltd. v. Gyan Chandra Agarwal & others) on 30.11.2021;

ii) issue an appropriate writ, order or direction quashing the impugned FIR bearing Case Crime No. 508 of 2021 lodged at Police Station Hari Parvath, District Agra on 11.12.2021 under Sections 420, 406, 467, 468, 471 and 120-B IPC;

iii) issue an appropriate writ, order or direction quashing the impugned order passed by the court of Chief Judicial Magistrate, District Agra, in Misc. Case No. 258/2022 (Pink City Infrastructure Pvt. Ltd. v. Gyan Chandra Agarwal & others) on 28.07.2022;

iv) issue an appropriate writ, order or direction commanding the respondents not to arrest the petitioner or take any coercive action against the petitioner in FIR bearing Case Crime No. 508 of 2021 lodged at Police Station Hari Parvath, District Agra on 11.12.2021 under Sections 420, 406, 467, 468, 471 and 120-B of IPC;

v) issue any other appropriate writ, order or direction which this Hon'ble Court may deem fit and proper under the facts and circumstances of the present case."

It is submitted that the first petitioner is the Additional Director of the complainant-company. It appears that an agreement was entered into between the parties for purchasing parcel of land at Jaipur for housing colony. It appears that some parcel of land was purchased, thereafter, additional land could not be purchased for the company, consequently, the dispute arose between the parties. Multiple FIR came to be lodged by the informant against the petitioner and other companies; it is not in dispute that after investigation Rajasthan Police at Jaipur, has filed final report; on protest, further investigation was directed, which again was followed by closer report. It is submitted that thereafter showing the cause of action at Agra city, where the branch office of the informant-company is alleged to

be situated the present FIR came to be lodged. The civil police at Agra after investigation submitted closure report and at the same time, the Investigating Officer found that it was a false case; further, investigation revealed that the dispute, inter se, parties is of purely civil nature, but, to mount pressure upon the petitioner, informant-company has given criminal colour; further, permission was sought for prosecution of the complainant under Section 182 IPC; Superintendent of Police vide communication dated 22.3.2022, remitted the matter to the concerned police station at Jaipur stating that civil police at Agra lacks jurisdiction in the matter; no part of the alleged crime had arisen at Agra. It appears that the complainant filed protest petition before the concerned Magistrate and the learned Magistrate directed further investigation, which is also under challenge. In this backdrop, it is submitted that it is a case of gross misuse of criminal process to coerce the petitioner to make settlement in the pending civil and arbitration cases. It is further urged that the learned Magistrate would lack territorial jurisdiction to pass the impugned order for further investigation.

In rebuttal, learned counsel appearing for the informant submits that the writ petition would not be maintainable as petitioner has remedy to raise challenge to the order of the Magistrate directing further investigation before the revisional court or in proceedings under Section 482 Cr.P.C.

Be that as it may, primary question that arises is whether Agra Police, as well as, Magistrate would have territorial jurisdiction to entertain the matter. It is not being disputed that multiple civil and arbitration cases, inter se, parties are pending.

Matter requires consideration.

All the respondents may file counter affidavit within four weeks. Petitioners shall have two weeks, thereafter, to file rejoinder affidavit.

List thereafter.

Considering the facts and circumstances of the case as briefly discussed above, as an interim measure, till the next date of listing, the effect and operation of the order dated 28.07.2022 passed by the Chief Judicial Magistrate, Agra, shall remain stayed.

Order Date :- 29.11.2022

Mukesh Kr.