

Court No. - 43

Case :- CRIMINAL MISC. WRIT PETITION No. - 15630 of 2024

Petitioner :- Mohammad Ali Jauhar

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Aditya Prasad Mishra, Anand Pati Tiwari

Counsel for Respondent :- Nitin Chopra, G.A.

Hon'ble Ashwani Kumar Mishra, J.

Hon'ble Dr. Gautam Chowdhary, J.

1. Challenging the impugned F.I.R., Criminal Misc. Writ Petition No. 13114 of 2024 has already been filed, wherein following order has been passed on 31.07.2024:-

"1. Submission is that sale deed has already been executed in favor of the informant in the year 2021 itself and for any dispute with regard to identity of the plots sold etc would give rise to a civil dispute and lodging of an FIR for such purposes is nothing but an abuse of process of law.

2. Matter requires consideration.

3. Notice on behalf of respondent nos.1, 2 & 3 is accepted by learned A.G.A., whereas Sri Sandeep Kumar Pathak has appeared for respondent no.4.

4. All the respondents are allowed six weeks time to file counter affidavit. Petitioner shall have two weeks thereafter to file rejoinder affidavit.

5. List thereafter.

6. Subject to petitioner cooperating in the investigation, no coercive action will be taken against him pursuant to the FIR dated 13.7.2024 registered as Case Crime No.340 of 2024 under Sections 420, 406 IPC, Police Station- Tappal, District- Aligarh."

2. It appears that during investigation Sections 467, 468 and 471 I.P.C. have been added, thereafter, the present writ petition has been filed.

3. In the previous writ petition no counter affidavit has been filed.

4. We are of the view that the contention that this is a civil dispute and, therefore, lodging of the F.I.R. is an abuse of the process of law, would require consideration.

5. Notice on behalf of respondent nos. 1 to 3 is accepted by learned

A.G.A., whereas Shri Vinay Saran, learned Senior Counsel, assisted by Shri Nitin Chopra has accepted notice on behalf of respondent No. 4.

6. All the respondents are allowed six weeks time to file counter affidavit. Petitioner shall have two weeks thereafter to file rejoinder affidavit.

7. List on 18.11.20224 along with Criminal Misc. Writ Petition No. 13114 of 2024 in top ten cases.

8. Subject to petitioner cooperating in the investigation, he shall also be entitled to interim protection in terms of the said order dated 31.07.2024 pursuant to the F.I.R. dated 13.07.2024 in Case Crime No. 340 of 2024, under Sections 467, 468, 471 I.P.C., Police Station- Tappal, District- Aligarh.

Order Date :- 20.9.2024

Mustaqeem.