

**Court No. - 76**

**Case :-** APPLICATION U/S 482 No. - 39962 of 2024

**Applicant :-** Jai Krishan Gupta And Another

**Opposite Party :-** State of U.P. and Another

**Counsel for Applicant :-** Akash Mishra

**Counsel for Opposite Party :-** Raj Kumar Mishra,G.A.

**Hon'ble Dinesh Pathak,J.**

1. It is submitted that money transaction between the parties, being earnest money for transfer of property, which is civil in nature, has illegally been dragged into the criminal proceeding. As per complaint case, present applicants have received Rs.3 lakhs in the account and Rs.16,50,000/- in cash to execute a sale deed, however, despite receiving the earnest money, sale deed has not been executed by the applicants. It is further submitted that in view of the ratio decided by Hon'ble Supreme Court in case of **Radheyshyam & others Vs. State of Rajasthan, Criminal Appeal No. 3020 of 2024 decided on July 22, 2024**, criminal proceeding is not maintainable.

2. Matter requires consideration.

3. Learned A.G.A. has accepted notice on behalf of respondent no.1. Respondent no.2 is also being represented through his counsel. They pray for and are granted two weeks' time to file counter affidavit. Rejoinder affidavit, if any, may be filed within a week thereafter.

4. List this matter on **20.01.2025**.

5. Till the next date of listing, no coercive action shall be taken against the present applicants in Complaint Case no.1156 of 2023 (Shyamkant Vs. Jai Krishan Gupta and another) under Section 323, 504, 506 IPC and 3(1)RS of SC/ST (P.A.) Act, Police Station-Kotwali, District- Etawah, pending in the court of Special Judge, SC/ST (P.A.) Act, Etawah.

**Order Date :-** 18.12.2024

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