

Court No. - 47

Case :- CRIMINAL MISC. WRIT PETITION No. - 8498 of 2024

Petitioner :- Omveer And 4 Others

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

Counsel for Petitioner :- Abhinav Gaur,Ankit Shukla,Mohd. Rashid Siddiqui,Sr. Advocate

Counsel for Respondent :- G.A.

Hon'ble Arvind Singh Sangwan,J.

Hon'ble Ram Manohar Narayan Mishra,J.

1. Heard learned counsel for the appellant and the learned AGA for State.
2. By way of this writ petition, the petitioners pray that this Court may issue a writ, order or direction in the nature of certiorari quashing the impugned First Information Report dated 10.5.2024 registered as Case Crime No.0334 of 2024 under Sections 420, 467, 468, 471 & 384 of IPC at Police Station Hapur Nagar, District Hapur.
3. Learned counsel for the petitioners inter alia contends that with regard to a sale deed executed in favour of petitioner nos. 2 and 3 in the year 2005, the informant filed a suit in which a decree was passed in his favour which was challenged by the petitioners by way of filing a civil suit and the same is pending.
4. Learned counsel for the petitioners further submits that even the informant has filed a suit for permanent injunction in which injunction has been granted in their favour and the petitioners have challenged that order before the higher Court.
5. Learned counsel for the petitioners then submits that the informant has filed two separate applications i.e. Application No. 1045 of 2022 and Application No.244 of 2023, under Section 156(3) Cr.P.C. before the Chief Judicial Magistrate, Hapur stating that the sale deed executed by the petitioner is an act of fraud. Learned counsel for the petitioner submits that in those proceedings, a report was submitted by the Police Station, Hapur Nagar, District Hapur that primarily it is a civil dispute and by passing two detailed separate orders dated 8.2.2024, Chief Judicial Magistrate, Hapur dismissed the applications filed under Section 156(3) Cr.P.C. by informant observing that the matter is purely of a civil nature. Learned counsel for the petitioners submits that the third application is also filed with an identical fact which is also pending before the Chief Judicial

Magistrate, Hapur in which a police report is sought and one Kamal Singh, Sub Inspector, Police Station Hapur Nagar, District Hapur has again submitted a report that a civil dispute regarding the land is pending between the parties and, therefore, no cognizable offence is made out.

6. Learned counsel submits that despite that the S.H.O./ Inspector, Vivek Kumar Chauhan has now registered the present FIR ignoring the earlier two orders passed by Chief Judicial Magistrate, Hapur in which the report by the same police station was submitted that it is a purely civil dispute as well as ignoring the second report submitted by Kamal Kumar, Sub Inspector on the third petition filed under Section 156(3) Cr.P.C. that the matter is purely of civil dispute and no cognizable offence is made out.

7. Learned counsel for the petitioners has relied upon the order dated 23.8.2022 passed by this Court in Criminal Misc. Application No.10368 of 2022 (Omveer Singh Vs. State of U.P. and 7 others) by which it has been specifically directed that w.e.f. 1.5.2024, no FIR will be registered without taking the opinion of D.G.C.(Criminal).

8. Learned counsel for the petitioners submits that even without following the direction issued in the order dated 18.4.2024, Vivek Kumar Chauhan, S.H.O./ Inspector has registered the present FIR despite the fact that the Chief Judicial Magistrate has already passed two separate detailed order on 8.2.2024 holding that no cognizable offence is made out as the dispute is purely of civil nature.

9. Matter requires consideration.

10. Notice on behalf of respondent Nos.1, 2 & 3 has been accepted by learned A.G.A. for the State.

11. Notice on behalf of respondent No.4 has been accepted by Sri S.M.N. Abbas Abidi, learned counsel and has submitted that on 13th August, 2013, the Sub Divisional Magistrate, Hapur has passed an order with regard to the sale deed and an observation was made that appropriate action be taken against all the erring persons.

12. Learned counsel submits that this order was passed with regard to correction of the revenue record which was made in favour of the petitioners. Be whatsoever, this order was passed about ten years ago and the present FIR has been registered in 2024 after dismissal of two application under Section 156(3).

13. The Superintendent of Police, Hapur is directed to look into the matter and file his personal affidavit on the next date fixed.

14. The S.H.O., Police Station Hapur Nagar, District Hapur is issued a show cause notice as to why a cost of Rs.50,000/- be not imposed upon him for violating the orders of Chief Judicial Magistrate, Hapur as well as the directions issued by this Court.

15. All the respondents may file counter affidavit within four weeks. Rejoinder affidavit may be filed within two weeks, thereafter.

16. List on 13.9.2024.

17. Meanwhile, no coercive action be taken against the petitioners pursuant to aforesaid F.I.R.

Order Date :- 22.5.2024

Mukesh